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Friday
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Presidential Documents

Title 3—

The President

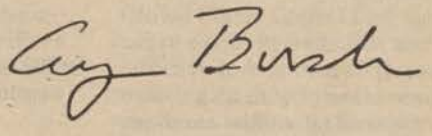
Memorandum of June 9, 1989

Delegation of Reporting Function

Memorandum for the Secretary of Defense

By virtue of the authority vested in me by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I authorize you to submit to the Congress the report summarizing the results of the review of the principles and concepts of the compensation system for members of the uniformed services, as required by P.L. 89–132, Sec. 2(a), August 21, 1965 (37 U.S.C. 1008(b)).

You are authorized and directed to publish this memorandum in the **Federal Register.**



THE WHITE HOUSE,
Washington, June 9, 1989.

[FR Doc. 89–14514
Filed 6–14–89; 3:55 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 54, No. 115
Friday, June 16, 1989

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 737

Post Employment Conflict of Interest

AGENCY: Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: The Office of Personnel Management is issuing a final regulation under the Ethics In Government Act of 1978 which reflects the determination by the Director of the Office of Government Ethics that the several offices and councils within the Executive Office of the President no longer meet the requirements for designation as "separate statutory agencies" under 18 U.S.C. 207(e) for the purpose of limiting the application of the post employment restrictions contained in 18 U.S.C. 207(c).

EFFECTIVE DATE: June 16, 1989 for individuals appointed to positions within the Executive Office of the President on or after June 16, 1989. The Director of the Office of Government Ethics has determined that this regulation constitutes a substantive change that adversely affects employees who held positions within the Executive Office of the President prior to June 16, 1989. Under 5 CFR 737.29, this change, therefore, is effective as to such persons only if they continue to hold positions within the Executive Office of the President for 5 months after June 16, 1989.

ADDRESS: Office of Government Ethics, P.O. Box 14108, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Leslie Wilcox, (202) 523-5757.

SUPPLEMENTARY INFORMATION: Subsection 207(e) of title 18 U.S.C. gives the Director of the Office of Government Ethics authority to designate statutory agencies or bureaus within a parent department or agency as separate for the purpose of limiting the post employment restrictions of 18 U.S.C. 207(c) applicable to former senior employees. Procedures and standards under which a parent agency may seek designation of separate statutory components are set forth in 5 CFR 737.13(c). The effect of designation by the Director is to limit the restriction of 18 U.S.C. 207(c) to contacts by a former senior employee with the statutory component in which he/she served. Such designation, however, does not benefit former heads of the separate subordinate agencies or former senior employees of the parent agency whose official responsibilities included supervision of the subordinate agency.

In 1983, in response to a request from the Counsel to the President, the Director of the Office of Government Ethics designated the following offices and councils within the Executive Office of the President as separate statutory agencies:

Office of Management and Budget
Council of Economic Advisers
National Security Council
United States Trade Representative
Council on Environmental Quality
Office of Science and Technology Policy
Office of Administration
White House Office and the Office of Policy Development
Office of the Vice President

That determination is implemented in 5 CFR 737.31.

On April 12, 1989, the Counsel to the President notified the Director of the Office of Government Ethics that the Executive Office of the President should be considered as a single agency for purposes of section 207(e). The letter noted that determinations of distinctness under that provision are informed by the purpose of section 207(c), which is "directed at unfair influence being exerted by a former official with the persons with whom he had worked", S. Rep. No. 95-170, 95th Cong., 1st Sess. 153 (1977); and that the spirit and purposes of section 207(c) and (e) dictated that separateness could be determined with reference to such factors as proximity and scope of interaction and not merely interchangeability of functions. It accordingly concluded that the Executive Office of the President, with its uniquely extensive responsibilities and degree of interaction, should be considered as a single agency for purposes of section 207(e). It also noted, however, that this conclusion flowed from the present organization of the Executive Office of the President and was accordingly subject to change, and that it stemmed from the Executive Office of the President's function as a unique locus of policy making for the entire spectrum of issues confronting the Government, rather than from any conclusion that the functions of its particular components are interchangeable. Pursuant to these Presidential determinations, 5 CFR 737.31 is amended to delete the Executive Office of the President and its subagencies from the listing of separate statutory components.

Pursuant to section 553 of title 5 of the United States Code, I find that good cause exists to make this amendment effective in less than 30 days for persons entering on duty in senior employee positions within the Executive Office of the President on or after June 16, 1989. Under 5 CFR 737.29 this regulation does not adversely affect persons holding senior employee positions in the Executive Office of the President prior to June 16, 1989 unless they remain in such positions for an additional 5 months. Thus, the change has an immediate impact only upon a limited class of persons who would not ordinarily have formed specific expectations as to their rights upon leaving government employment and who would be unlikely to leave office and be affected by the change within less than 30 days after June 16, 1989.

E.O. 12291, Federal Regulations

The Office of Government Ethics has determined that this is not a major rule as defined under section 1(B) of E.O. 12291.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only Federal employees.

List of Subjects in 5 CFR Part 737

Conflicts of interest, Government employees.

U.S. Office of Personnel Management.

Frank Q. Nebeker,

Director, Office of Government Ethics.

Accordingly, the Office of Personnel Management is amending 5 CFR 737.31 as follows:

PART 737—[AMENDED]

1. The authority citation for Part 737 continues to read as follows:

Authority: Titles II and IV of Pub. L. 95–521 (October 26, 1978), as amended by Pub. L. 96–19 (June 13, 1979), 5 U.S.C. Appendix; Pub. L. 96–150 (November 11, 1983); 18 U.S.C. 207.

§ 737.31 [Amended]

2. Section 737.31 is amended by removing "Parent Agency: EXECUTIVE OFFICE OF THE PRESIDENT" and the listing under it down to and including the "Office of the Vice President."

[FR Doc. 89–14330 Filed 6–15–89; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 250

Donation of Food for Use in the United States, its Territories, Possessions and Areas Under its Jurisdiction

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule correction.

SUMMARY: This docket corrects a final rule on the State processing portion of the food distribution program that appeared in the **Federal Register** of Wednesday, February 22, 1989 (46 FR 7521–7526). This action is necessary to correct technical errors in citations within the Final Rule.

FOR FURTHER INFORMATION CONTACT: Susan E. Proden, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22303 or telephone (703) 756–3660.

The following corrections are made in FR Doc. (FR Doc. 89–4043) appearing on pages 7521–7526 in the issue of February 22, 1989:

§ 250.19 [Corrected]

1. On page 7525 in the third column in § 250.19(b)(2)(vi)(A), "(b)(2)(ii) (A) through (E)" is corrected to read "(b)(2)(i)–(v)".

2. On page 7525 in the third column, in § 250.19(b)(2)(vi)(B), "§ 250.15(m)" is corrected to read "§ 250.30(m)".

§ 250.30 [Corrected]

3. On page 7526 in the first column in § 250.30, the material designated as paragraph (d)(2) should have been the concluding two sentences of paragraph (d)(1)(iii) and the reference therein to "§ 250.30(b)" is corrected to read "§ 250.19(b)"; and in column two, paragraphs "(d)(3)" and "(d)(4)" are correctly designated as paragraphs "(d)(2)" and "(d)(3)".

4. On page 7526 in the second column, in § 250.30(e)(1), "(d)(2)" is corrected to read "(d)(1)(iii)".

Dated: June 9, 1989.

G. Scott Dunn,

Acting Administrator.

[FR Doc. 89–14362 Filed 6–15–89; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 670]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 670 establishes the quantity of fresh California-Arizona lemons that may be shipped to market to 400,000 cartons during the period June 18 through June 24, 1989. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 670 (§ 910.970) is effective for the period June 18 through June 24, 1989.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and appoximately 2,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended [7 CFR Part 910], regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1988–89. The Committee met publicly on June 13, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that demand for lemons is strong.

Pursuant to 5 U.S.C. 553, it is further found that it is impractable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open

meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is revised as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.970 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.970 Lemon regulation 670.

The quantity of lemons grown in California and Arizona which may be handled during the period June 18, 1989, through June 24, 1989, is established at 400,000 cartons.

Dated: June 14, 1989.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–14487 Filed 6–15–89; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 524

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a NADA from National Dermaceutical Products, Inc., to Pan American Pharmaceuticals, Inc.

EFFECTIVE DATE: June 16, 1989.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: Pan American Pharmaceuticals, Inc., 4156 Danvers Ct. SE., Grand Rapids, MI 49508, has informed FDA that it has acquired NADA 31–555 which provides for topical use of a drug product containing trypsin, balsam, and castor oil on external wounds of horses, cattle, dogs, and cats to assist healing. National Dermaceutical Products, Inc., the former sponsor, has confirmed the change of sponsor. Accordingly, the agency is amending the list of sponsors of approved NADA's in 21 CFR 510.600(c) to remove the entries for National Dermaceutical Products, Inc. (the firm no longer sponsors an approved NADA) and to add entries for Pan American Pharmaceuticals, Inc. Additionally, 21 CFR 524.2620 is amended to reflect the change of sponsor.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Sections 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. Section 510.600 is amended in paragraph (c)(1) by removing the entry for "National Dermaceutical Products, Inc.," and by alphabetically adding the new entry "Pan American Pharmaceuticals, Inc.," and in paragraph (c)(2) by removing the entry for "051268" and by numerically adding the entry "052799" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Pan American Pharmaceuticals, Inc., 4156 Danvers Ct. SE., Grand Rapids, MI 49508.	052799
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
052799	Pan American Pharmaceuticals, Inc., 4156 Danvers Ct. SE., Grand Rapids, MI 49508.
* * * * *	

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR Part 524 continues to read as follows:

Authority: Section 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

§ 524.2620 [Amended]

4. Section 524.2620 *Liquid crystalline trypsin, Peru balsam, castor oil* is amended in paragraph (b)(2) by removing "051268" and adding in its place "052799".

Date: June 12, 1989.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation Center for Veterinary Medicine.

[FR Doc. 89–14344 Filed 6–15–89; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

National Highway Traffic Safety Administration

23 CFR Part 659

[FHWA Docket No. 88–5]

Certification of Speed Limit Enforcement; Revision of Procedures

AGENCY: Federal Highway Administration/National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This document simplifies the procedure for determining State compliance with the provisions of Federal law regarding maximum speed limits and for determining the amount and timing of any reduction of Federal-aid highway funds to those States that

are found to have not complied. The rule also updates the current regulation to reflect statutory changes, describes the reservation of obligational authority in the event that a final determination on a State's compliance is not issued by the date subsequent apportionments are made, and clarifies the provisions concerning apportionment of withheld funds to States that have subsequently complied with the statute.

DATES: These revisions to 23 CFR Part 659 are effective July 17, 1989.

FOR FURTHER INFORMATION CONTACT: In OST: Samuel E. Whitehorn, Office of Assistant General Counsel for Regulations and Enforcement at (202) 366–9307; in FHWA: Mr. Harry Skinner, HTO–30, (202) 366–2186, or Mr. David C. Oliver, Safety Law Division, (202) 366–1356; in NHTSA: Mr. Clayton Hall, NTS–40, (202) 366–4913, or Ms. Kathy DeMeter, General Law Division, (202) 366–1834, all at the Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

The Department of Transportation (Department or DOT) is responsible for ensuring that each State enforce a maximum 55 miles per hour (MPH) speed limit on those roads posted at 55 MPH. The Surface Transportation and Relocation Assistance Act of 1987, Pub. L. 100–17 (April 2, 1987), and section 329(a) of Pub. L. 100–202 (December 22, 1987) permitted States to increase the maximum allowable speed limit to 65 MPH on certain portions of the Interstate System and other similarly designed highways. Neither statute, however, changes the requirement that States submit information and continue to enforce the 55 MPH speed limit on roads posted at 55 MPH.

States are required to certify to the Department that they are enforcing the 55 MPH speed limit (or 65 MPH, as appropriate) on their public highways (23 U.S.C. 141 and 154). The States must also provide data to support that certification, including information on the percentage of motor vehicles exceeding the 55 MPH speed limit on roads posted at that limit (section 154(e)). Section 154(f) provides that the Department shall reduce (up to ten percent) a State's Federal-aid apportionments for the Primary, Secondary, and Urban highway programs (23 U.S.C. 104(b) (1), (2), and (6)), for the fiscal year that begins subsequent to the submission of data showing that more than 50 percent of the motor vehicles traveling on that State's highways which are posted at 55 MPH exceed that limit. Section 154(g) gives the Secretary discretion to delay the imposition of sanctions in hardship cases, and section 154(h) provides that any funds withheld under this section shall be promptly apportioned if the percentage of vehicles exceeding the 55 MPH limit falls to 50 percent or below in a succeeding year. The statute does not require the Department to hold a hearing before reducing a State's apportionments.

Section 351 of the Department of Transportation and Related Agencies Appropriation Act of 1989, Pub. L. 100–457, enacted September 30, 1988, precludes the Secretary from enforcing section 154(f) with respect to data collected in fiscal years 1986, 1987 and 1988. The legislative history of this provision indicates that it was intended to give Congress time to continue its reexamination of the issues associated with the existing national maximum speed limit laws, without burdening the States with non-compliance proceedings whose outcome might be altered by future legislative amendments.

Current Federal Highway Administration (FHWA) and National Highway Traffic Safety Administration (NHTSA) implementing regulations, 23 CFR Part 659, provide procedures for State certification of compliance. (FHWA and NHTSA are operating administrations within DOT.) Under those regulations, each State develops a plan to monitor speeds which is subject to FHWA review and approval. By January 1 of each year, each State must certify its compliance for the preceding fiscal year and submit information to support that certification.

Under present regulations, if the State-submitted data indicates apparent noncompliance, the State is afforded a number of opportunities to explain the certification and data, before any apportionment reductions are made. The State may first request an informal hearing to show cause why it should not be found in noncompliance or to attempt to resolve the matter informally. If the matter is not resolved informally, the State may request a formal hearing. If no request for a hearing is made, the Administrators will forward a proposed determination to the Secretary.

If a State does request a formal hearing, it is held before an administrative law judge (ALJ). The ALJ then issues a recommended decision on compliance.

Following review of either the ALJ's recommended decision or the Administrators' proposed determination, the Secretary makes a final determination on compliance. If the Secretary determines that a State is not in compliance, the Administrators notify the State of that determination and of the proposed reduction in apportioned funds. The State may request an informal meeting with the Administrators to discuss the sanction and/or a possible hardship deferral. After that meeting, a final decision on sanctions and hardship deferral is issued.

The NPRM and Public Comments

On March 11, 1988, FHWA and NHTSA issued a Notice of Proposed Rulemaking (NPRM) (48 FR 7943) that proposed specific changes to simplify the compliance determination and apportionment reduction process and to make technical modifications in response to recent statutory amendments. In response to that NPRM, the Department received comments from several State highway and transportation departments, two state police departments and one consumer group. The majority of the commenters—including the Hawaii Department of Transportation, Maryland Department of Transportation, Georgia Department of Transportation, Michigan Office of Highway Safety Planning, Texas State Department of Highway and Public Transportation, and the Oregon Departments of State Police and Transportation—supported the proposed simplification of the procedures. For example, the Texas State Department of Highways and Public Transportation stated that the procedural changes will benefit the State by allowing relevant input earlier in the process, eliminating unnecesssary steps, and concentrating on the primary factors that relate to speed limit compliance, enforcement, and safety.

In contrast, the Massachusetts Department of Public Works, the California Departments of Highway Patrol and Transportation, the North Dakota State Highway Department, the State of New York Department of Transportation, and the Center For Auto Safety (CFAS) submitted comments opposing the proposed changes. Comments concerning specific proposals in the NPRM are discussed in the pertinent sections.

Several comments addressed matters that would require legislative changes. For example, some commenters questioned the general validity of a Federal role in speed limit enforcement. Another party argued that the urban boundary limit in § 659.7 is an unrealistic point at which to require a reduction in speed. The Texas Department of Highways and Public

Transportation recommended that the Department develop a system to provide adjustments for states that have raised speed limits on certain highways to 65 MPH versus those states that have not. Since resolution of these concerns would require statutory changes, the Department is unable to address them in this rulemaking, regardless of merit.

The California Departments of Highway Patrol and Transportation argued that the Department should withhold final rulemaking until Congress completed its consideration of pending bills that addressed speed limit compliance. Since those comments were filed, Congress has acted. Although Pub. L. 100–457 provides that there will be no enforcement for alleged noncompliance during fiscal years 1986–1988, it is possible that a State might be in noncompliance in fiscal year 1989 or beyond. In light of that possibility, it is appropriate to have these revised procedures in place to assure that there are no unnecessary delays at that time.

Section-By-Section Analysis of Changes

Section 659.15 Certification Content

Section 154(e) provides that each State shall submit to the Secretary such data as the Secretary determines is necessary to support its certification under section 141, including data representing statewide driver noncompliance with the 55 MPH speed limit. The data is to be submitted "in accordance with criteria to be established by the Secretary, including criteria which take into account the variability of speedometer readings * * *."

When a final rule implementing this provision was published (45 FR 64488; September 29, 1980), speedometer variability was acknowledged, but no specific procedures to account for it were put in regulatory form. Discussion of speedometer variability was confined to the rule's supplementary information section. That narrative indicated that methodologies available to implement the concept would be published and distributed at a later date. Until the NPRM, however, no further discussion of this topic appeared in the **Federal Register.** Instead, beginning in 1980, the speedometer variability adjustment process has been handled, on an annual basis, via memorandum from FHWA Headquarters to the FHWA field offices, with the appropriate information then passed on to the States. The States then made the appropriate adjustment prior to submission of their annual certification of speed limit enforcement required by 23 U.S.C. 141.

FHWA and NHTSA have determined that it would be appropriate to publish these speedometer variability adjustment procedures in the Code of Federal Regulations, so that they will be readily available to the public. Therefore, we have amended 23 CFR 659.15(d) to set forth the entire process whereby a State produces a statewide value for the percentage of vehicles exceeding 55 MPH. That subsection is as proposed in the NPRM, except the letter "H" has been substituted for "G" in paragraph (d)(2) to reduce any possible confusion.

The California Departments of Highway Patrol and Transportation, citing a study by the National Academy of Sciences, argued that the speedometer variability adjustment process contained in the NPRM is "seriously flawed". They also argued that the statute does not specifically authorize the adjustments for statistical and equipment error and that the second adjustment in § 659.15(d)(1) should use a confidence level of 99% instead of 95%. We have reviewed this adjustment methodology and continue to believe that it is appropriate. Furthermore, a 95% confidence level is widely used in statistical analyses.

Section 659.19 Effect of Failure To Certify or To Meet Compliance Standards

Much of existing § 659.19 implements the earlier statutory scheme, which included a phased-in compliance process. The 1981 amendment to 23 U.S.C. 154 (section 1108(a) of Pub. L. 97–35) replaced the phased-in compliance requirement (which set different compliance standards for different years) with a straightforward compliance standard of 50 percent. Thus, States now must demonstrate that the percentage of motor vehicles exceeding 55 MPH on roads posted at that speed is not greater than 50 percent. The regulation has been revised to reflect the statutory amendments.

The California Department of Highway Patrol pointed out that the statute does not specifically provide for a 100 percent sanction, i.e., withholding of project approvals, when a State is not "adequately enforcing" the 55 MPH limit. However, 23 CFR 659.19(a) currently could be construed as providing for such a sanction, despite the fact that there is no definition for the quoted phrase. Since some might think that this ambiguous provision could apply in the event that more than 50 percent of the vehicles operated above 55 MPH, and since the statute clearly limits the sanction in that circumstance to 10 percent, we have revised the regulation to eliminate the "not adequately enforcing" language, in order to more closely align the regulation with the statute.

Subsection (d) revises the provision covering the apportionment of funds that had been withheld from a State in prior years. The applicable statutory provision provides that the Secretary shall promptly apportion to a State any funds that have been withheld pursuant to subsection (f) "* * * if he determines that the percentage of motor vehicles in such State exceeding fifty-five miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld." 23 U.S.C. 154(h).

The "level specified for the fiscal year" language, which was incorporated in the existing regulation, is based on the Federal-Aid Highway Amendments of 1974 (Pub. L. 93–643) and section 205 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599), and refers to the former phased-in compliance process. The Department, therefore, has amended this language to reflect the fact that under current law the uniform compliance level is 50 percent.

Section 154(h) provides that the Department shall apportion to a State any funds that have been withheld because of the State's noncompliance if it determines that the State has come into compliance in a later year. New § 659.19(d) clarifies that funds apportioned under this provision are subject to the limitations established by 23 U.S.C. 118(b)(1), which provides that sums apportioned to the three Federal-aid systems from which sums can be withheld under the speed limit law are available for expenditure "for a period of three years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of the such period lapse." Thus, funds withheld from a State will be apportioned only if the Department determines, based upon an analysis of speed monitoring data for a complete fiscal year, that the State has come into compliance such that the withheld funds wiil be available for expenditure.

New § 659.19(e) describes the action that will be taken by the Department in the event that the procedures of § 659.21 are not completed by the date on which apportionments are made for the following fiscal year (normally October 1). In part because of the complexity of the current Part 659, on a number of occasions during the past few years the Department has not been able to render a final determination on the issues of whether and by how much a State's

apportionments should be reduced by that date. In order to assure that a proper sanction can be imposed in the event that the State is found to be in non-compliance, the Department has apportioned Federal-aid funds for that State, but reserved from obligation an amount equal to 10 percent of the State's primary, secondary, and urban apportionments for that fiscal year.

This step was taken because a State's apportionments cannot be reduced until a final determination is made that it was not in compliance. Yet if the Department did not take the precautionary step of reserving these funds, a situation could arise wherein a State would have obligated all of its apportionments prior to a final decision. Then, if the Department subsequently concluded that the State had not complied, it would be unable to fulfill its statutory obligation to withhold funds from that State.

CFAS submitted comments challenging the procedural and substantive validity of § 659.19(e). CFAS claimed that this provision was a "means for authorizing administrative delay in order to postpone decisions and avoid imposing mandatory statutory penalties * * * [and] is a blatant attempt at posturing in order to improve the agencies' legal position in court." CFAS also argued that "(t)he introduction of the reservation from obligation into DOT regulations attempts to justify prior unauthorized agency practice that violates the statutory scheme." DOT obviously disagrees. The Department believes that the funds reservation procedure is a proper response, consistent with the statute, to circumstances in which a final decision on compliance and sanctions cannot be made prior to the next scheduled apportionment of funds. The revised regulation merely codifies this process in the regulations.

The California Departments of Highway Patrol and Transportation urged the Department to not withhold apportionments until after a final sanction decision is made. They argued that it would be more equitable to withhold apportionments for the year following a final noncompliance decision. However, in view of the statutory language, we cannot simply ignore the pendency of an enforcement proceeding. The reservation process allows the Department to take appropriate action after a final decision is made.

Section 659.21 Procedures

Based on our past experiences with the current procedures, we are adopting a less formal and more streamlined process that will allow a more prompt resolution of compliance and funding issues, while still affording each State an ample opportunity to present its position to the Department. The major difference from the old rule involves the elimination of the formal hearing process, as outlined more fully below.

The new regulation eliminates steps that have simply proven to be nonproductive, based on the Department's experience. The issue of compliance is generally self-evident, since it is based upon data compiled by the State (and adjusted in accordance with FHWA procedures). If a State wishes to present additional information to the Department on the issue of compliance, it will still be able to do so in an informal, non-hearing context. With respect to the amount and timing of any sanctions for noncompliance, the new rule will provide the same opportunity for the States to provide information and arguments as under the existing rule. Moreover, under the new procedure, the States will be able to address the issue of sanctions prior to the final determination on compliance.

Therefore, the following procedures will be used, beginning with certifications involving fiscal year 1989:

If the information available to the FHWA and NHTSA Administrators indicates that a State does not appear to be in compliance, the Administrators will send a proposed noncompliance determination to the Governor. This decision would usually be based on data submitted by the State, but the Administrators may also consider other data if it seems appropriate, such as if there is a reason to doubt the accuracy of the State's submission.

A State will have 30 days from the date of receipt of the Administrators' letter to request an opportunity to show cause why it should not be found in noncompliance, discuss a possible sanction, and/or discuss a possible hardship deferral. If a State wishes, an informal meeting will be held with the Administrators and/or their representatives. A transcript of that meeting will be prepared. The State can offer any relevant information, including materials concerning compliance, enforcement, hardship, and sanction levels. In lieu of requesting a meeting, within the 30-day period the State can present written information to the Administrators concerning compliance, enforcement, sanctions, and deferrals. (If the State agrees that it is not in compliance, the meeting or letter would focus on the amount and/or timing of the sanction.) If a State believes it needs more than 30 days to prepare its response, it may request an extension of time. Such a request should be submitted to the Administrators, jointly, along with the basis for the State's request.

On the basis of the information provided, the Secretary will issue a final decision, in writing, regarding the State's compliance and, if applicable, the amount and timing of any reduction of apportionments. The decision will set forth the basis for the determination, and a copy will be sent to the State.

This procedural change will afford all States an adequate opportunity to attempt to demonstrate to the Department that the data submitted with the annual certification do not tell the entire story, and to submit any other relevant information that a State wishes the Department to consider on the issues of what the sanction should be and whether any sanction should be deferred.

The proposal to revise § 659.21 was the focus of most of the comments on the NPRM. Two commenters, who generally supported the procedural changes, urged the Department to specify a time frame for States to prepare their case. This suggestion has been incorporated. One of these parties also recommended that the Department specify (1) that FHWA and NHTSA will jointly make the written notification of proposed determination within 45 days of receipt of the affected State's certification, (2) the particular official or office to which requests for an informal hearing or documents are to be submitted, (3) which past and current operational programs are to be included in the scope of review, (4) the particular Department official to whom the information is to be submitted, and (5) that the Department will send the State a copy of its final decision. The Department has accommodated most of these suggestions in the revised regulation. However, we do not believe it would be appropriate to restrict agency decisionmaking to a rigid time limit. In view of the variety of issues that might arise, particularly with respect to the level and timing of sanctions for noncompliance, we have decided to retain flexibility in this area.

The California Departments of Highway Patrol and Transportation urged the Department to retain its existing procedures, arguing that the proposed changes fail to provide a State an adequate opportunity to appeal a decision to impose sanctions. The new rule, however, provides the States the same opportunity to offer information and arguments on the sanction issue as the old rule; neither provides an opportunity for administrative appeal of

the sanction determination. Moreover, an affected State may still obtain judicial review of the Department's determination.

California also urged the Department to make several significant substantive changes with respect to the determination of an appropriate sanction. They argued that withholding funding for safety projects is inconsistent with highway safety and that the Department should return withheld or reserved funds to a State if those funds are to be expended on safety-related projects. They also argued that States should be allowed to make innovative proposals for improving safety in lieu of sanctions. We do not believe that the regulation needs to be changed as California suggests. The Secretary will consider the issues raised by California in determining the level of sanction to impose in the event of noncompliance; however, the Department does not have the discretion under the law to consider foregoing a penalty altogether in the event of noncompliance.

The North Dakota State Highway Department opposed the proposed change in procedures, arguing that it favors a lengthier process because it delays the loss of funds, and that if the hearing is eliminated, there will be insufficient time for the States to construct a case in their own defense. The Department is aware of North Dakota's policy view that the entire sanction mechanism is ineffective, counterproductive, and should be repealed. However, the sanctioning mechanism is mandated by statute, which DOT is required to administer to the best of its ability. Therefore, we cannot agree that procedures should be constructed to create delay in administrative decisionmaking in order to intentionally defer the imposition of sanctions. With respect to North Dakota's second point, the Department has concluded that 30 days affords States an adequate amount of time to prepare their case. However, a State may obtain an extension of that period if it can show that one is warranted.

The State of New York Department of Transportation expressed concern that the proposed procedural changes will abridge a State's right to a formal hearing, and urged the Department to allow a State to request a formal hearing in addition to an informal hearing. Section 154, however, does not confer a statutory right to a formal APA hearing prior to the imposition of sanctions. Under the APA, the Department has the flexibility to fashion other, more appropriate procedures to comply with the statutes governing the national maximum speed limit.

CFAS argued that the NPRM would change the compliance decision process in that it would "alter the criteria on which the compliance finding is predicated." It was never our intent to alter the substantive criteria for compliance determinations. However, to remove any confusion, the Department has revised the language of the final rule to clarify that information properly relating to the amount and timing of a possible sanction will not be considered in determining whether a State is in compliance.

CFAS also argued that due process considerations demand that the Department provide a formal hearing on the record; that the Department should set definite time limits for agency action; and that all final decisions should be in writing and state the reasons for the determination. The Department has revised the language of section 659.21(e) to incorporate the latter suggestion. However, for the reasons discussed above, we disagree that it is necessary to set definite time limits for agency action. With respect to due process, the Department is not required by statute or due process considerations to provide a formal on-the-record hearing. In fact, to continue to do so would unnecessarily exacerbate the delays in reaching a final decision that CFAS has opposed in the past. Moreover, since a State may obtain judicial review of the Secretary's final determination, its due process rights are fully preserved.

Administrative Law Judges

In the NPRM, the Department requested comments on whether a separate provision was desirable to specifically authorize the Administrators, at their option, to utilize Administrative Law Judges (ALJ's) to determine questions of fact. The Department received comments both supporting and opposing such action.

The Hawaii Department of Transportation and the North Dakota State Highway Department opposed using ALJs to determine questions of fact. Hawaii commented that it would add unnecessary cost to the process, and North Dakota stated that it was unnecessary, since the States supply the certification data.

The Massachusetts Department of Public Works and the Oregon Department of State Police supported a separate provision authorizing the use of ALJs. Massachusetts argued that because ALJs were the only impartial arbitrators within the process, their role should be expanded to include the deciding of both compliance and sanction issues. Oregon also urged the Department to use ALJs to determine questions of fact regarding sanctions.

The Department agrees with the commenters opposing the use of an ALJ. We do not believe that there will be significant factual disputes. Since the sanction determination process is ultimately committed to the Secretary's discretion, we believe that an ALJ would not serve a useful role in that area.

Miscellaneous

Section 174 of Pub. L. 100–17 (April 2, 1987) and section 329(a) of Pub. L. 100–202 (December 22, 1987) authorize the States to increase, without loss of Federal-aid funds, the maximum speed limit to 65 MPH on Interstate and certain other highways of similar design located outside of urbanized areas of 50,000 population or more. These provisions required certain technical changes to the regulation, and these have been made where necessary. Finally, other technical changes have been made where appropriate, where operating experience has demonstrated a need for further clarification.

Regulatory Evaluation/Flexibility Act

The Department has determined that this rule is not a "major rule" under Executive Order 12291. However, because of the public's interest in speed limit enforcement, it is considered a significant regulation under the Department's regulatory policies and procedures. Although CFAS argued that the Department must author a detailed regulatory evaluation, such an evaluation is not required, since the changes to the current regulation effected by this amendment are procedural in nature or are merely technical to reflect statutory changes.

CFAS also argued that the Department should have extended the comment period an additional 60 days. CFAS accused the Department "of rushing through important policy changes that are unsupported in statute, prior to the decisions of the Federal courts on the merits of litigation against the U.S. DOT on its administration of the 55 MPH national speed limit law."

The Department believes that all interested parties have had an adequate opportunity to present their views on these issues. Moreover, this amendment does not constitute a "policy change." It merely streamlines an unwieldy, overly complex procedural scheme that has proven to be unnecessary. With respect to CFAS's litigation concerns, these changes are of course prospective only. Moreover, on May 23, 1989, the United States District Court for the District of

Columbia issued an order dismissing the CFAS complaint. The Court found that section 351 of the Department of Transportation and Related Agency Approprations Act for Fiscal Year 1989, which precludes enforcement of the speed limit law against States with respect to Fiscal Years 1986, 1987 and 1988, mooted any changes to the timeliness of the Department's enforcement efforts with respect to those years. It then concluded that the possibility that CFAS would be subjected to similar delays in the future was too speculative to warrant retaining jurisdiction.

Because this rule prescribes procedural requirements for implementation of the statute, and because its economic impact, if any, will result from the operation of the statute and not this rule, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2125–0027.

FHWA and NHTSA have considered the environmental implications of this rule, in accordance with the National Environmental Policy Act and determined that it will not significantly affect the human environment.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment

In consideration of the foregoing, the FHWA and NHTSA hereby amend Chapter I of Title 23, Code of Federal Regulations as set forth below:

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Part 659

Grant programs-transportation, Highways and roads, Motor vehicles, Reporting and recordkeeping requirements, Speed limit, Traffic regulations.

Issued on June 7, 1989.

R.D. Morgan,

Executive Director, Federal Highway Administration.

Jeffrey R. Miller,

Acting Administrator, National Highway Traffic Safety Administration.

PART 659—CERTIFICATION OF SPEED LIMIT ENFORCEMENT

The FHWA and the NHTSA amend 23 CFR Part 659 as follows:

1. The authority citation for 23 CFR Part 659 is revised as follows:

Authority: 23 U.S.C. 118, 141, 154, and 315, 49 CFR 1.48(b) and 1.50.

2. Section 659.5 is amended by adding a paragraph (e) to read as follows:

§ 659.5 Definitions.

* * * * *

(e) "An area of 50,000 population or more" is the same as the term "urbanized area" as defined in 23 U.S.C. 101(a).

* * * * *

3. Section 659.7 is amended by revising paragraph (a) as follows:

§ 659.7 Adoption of a national maximum speed limit.

* * * * *

(a) The maximum speed limit on a highway either on the Interstate System, or designated for participation in the demonstration program established by section 329 (a) of Pub. L. 100–202, and located outside of an urbanized area of 50,000 population or more, shall be 65 mph or less. The maximum speed limit on all other highways in the State shall be 55 mph or less. Emergency and police motor vehicles may be authorized to operate at higher speeds when necessary to protect the public health or safety.

* * * * *

4. In § 659.9, paragraph (b)(5)(ii), (b)(7)(i), (b)(7)(ii), and (c)(2) are revised and a parenthetical is added at the end of the section to read as follows:

§ 659.9 Formulation of a plan for monitoring speeds.

* * * * *

(b) * * *

(5) * * *

(ii) A 24–hour monitoring period shall be the minimum duration of any individual sampling session.

* * * * *

(7) * * *

(i) Schedule—a detailed schedule shall distribute speed monitoring sessions evenly among the days of the week and the three month periods of the year ending December 31, March 31, June 30, and September 30.

(ii) Field data collection—the goal is to obtain, during each monitoring session, a representative record of the traffic speeds that normally occur in a given segment. Therefore, the choice of a data collection site within a given segment should reflect the geometric design conditions of the segment. In addition, the collection of data should not be attempted and data will not be acceptable in determining compliance, if conditions at a site are such that the normal flow of traffic is substantially restricted by activities such as roadway construction or maintenance operations, extreme weather conditions, temporary lane closings, or the presence of non-routine enforcement activity.

* * * * *

(c) * * *

(2) Adjustments to the number of sampling locations in a state.

* * * * *

(Approved by the Office of Management and Budget under control number 2125–0027)

5. Section 659.13 is revised to read as follows:

§ 659.13 Certification requirement.

Each State shall certify to the Secretary of Transportation before January 1 of each year that it is enforcing the National Maximum Speed Limit on all public highways in accordance with 23 U.S.C. 154. The certification shall be supported by information on activities and results achieved during the 12-month period ending on September 30 preceding the January 1 date by which certification is required.

6. In § 659.15 paragraphs (a) and (d) are revised to read as follows:

§ 695.15 Certification content.

* * * * *

(a)(1) A statement by the Governor of the State, or an official designated by the Governor, that the National Maximum Speed Limit on public highways in the State is being enforced. The certifying statement shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of_____, do hereby certify that the (State or Commonwealth) of_____, is enforcing the National Maximum Speed Limit.

(2) If this statement is made by an official other than the Governor, a copy of the document designating the official, signed by the Governor, shall also be included in the certification made under this part

* * * * *

(d) The statewide percentage of vehicles exceeding the 55 mph speed

limit as derived from the speed sampling plan discussed in § 659.9, and adjusted to take into account variability of speedometer readings. The allowable adjustment shall be calculated using either of the two following procedures:

(1) This procedure includes separate adjustments for each of three potential error sources. First, Speedometer Variability.

Let:

A = the percent of vehicles exceeding 55 mph derived from the speed sampling plan required by § 659.9.

B = the percent exceeding 60 mph derived from the speed sampling plan required by § 659.9.

C = (A − B)

Let:

D = the percent exceeding 55 mph, adjusted for the first part of speedometer variability.

D = .7(C) + B

Second, Statistical Error.

Let:

E = the percent exceeding 55 mph, adjusted for the first and second part of speedometer variability.

E = D − ($t_{.95,n}$) s(Pst).

Where ($t_{.95,n}$) and s(P_{st}) are as defined in the SMPPM.

Third, Speed Monitoring Equipment Error

Let:

F = a correction for speed measuring equipment error. (Derivation and use of an equipment error correction is subject to approval by the FHWA.)

G = the percent exceeding 55 mph, fully adjusted to account for variability of speedometer readings.

G = E − F

(2) This procedure accounts for all three error sources discussed in paragraph (d)(1) with a single adjustment.

Let:

A = the percent of vehicles exceeding 55 mph derived from the speed sampling plan required by § 659.9.

B = the percent exceeding 60 mph derived from the speed sampling plan required by § 659.9.

H = the percent exceeding 55 mph, fully adjusted to account for variability of speedometer readings using a single adjustment.

$$H = \frac{A+B}{2}$$

7. In § 659.17, paragraph (c) is revised and a parenthetical is added at the end of the section to read as follows:

§ 659.17 Certification and statistical submittal.

* * * * *

(c) As described in § 659.15(d), the statewide percentage of vehicles exceeding 55 mph is the only direct result of the speed monitoring program that is required for inclusion in the annual certification. However, additional summary statistics from the speed monitoring program are necessary in order to provide a complete review of each State's speed monitoring program. Therefore, a report of the average speed, median speed, 85th percentile speed, and percent of vehicles exceeding 55, 60, and 65 miles per hour shall be submitted by each State to the FHWA Division Administrator on a quarterly basis for the 3 month periods ending December 31, March 31, June 30, and September 30 of each year. The submittal for the July-September quarter shall, in addition to the quarterly report, include a summary report of the entire year's speed monitoring data (starting from the previous October 1).

(Approved by the Office of Management and Budget under control number 2125-0027)

7. Section 659.19 is amended by revising paragraphs (a), (b), and (d), and adding paragraph (e), to read as follows:

§ 659.19 Effect of failure to certify or to meet the compliance standards.

(a) If a State fails to certify as required by § 659.13, no Federal-aid highway project shall be approved under 23 U.S.C. 106 in that State.

(b) Except as provided by subsection (e), notwithstanding the proper submission of a certification and information supporting the enforcement activities of any State, if the Department determines that the percentage of motor vehicles exceeding 55 mph on roads posted at 55 mph is greater than 50 percent, funds apportioned to that State under 23 U.S.C. 104(b)(1), 104(b)(2), and 104(b)(6) shall be reduced an aggregate amount of up to 10 percent for the fiscal year subsequent to the fiscal year in which the certification is submitted, or for the following fiscal year in the event of a hardship determination.

* * * * *

(d) Funds withheld pursuant to this part shall be apportioned to a State, subject to availability of such funds under 23 U.S.C. 118(b)(1), upon a determination by the Department that the percentage of motor vehicles exceeding 55 mph on roads posted at 55 mph in such State, as adjusted in accordance with § 659.15(d), has dropped to 50 percent or lower. One complete fiscal year's speed monitoring results will be required to make such a determination.

(e) If a final decision under the procedures of § 659.21 has not been made for any State before the beginning of the fiscal year following the certification required by this part, the Secretary may apportion 100 percent of the funds for that fiscal year to that State. However, ten percent of the funds apportioned to such a State under 23 U.S.C. 104(b)(1), 104(b)(2) and 104(b)(6) shall be reserved from obligation, pending a final decision under § 659.21.

8. Section 659.21 is revised to read as follows:

§ 659.21 Procedures.

(a) If the data submitted by a State, or other information available to the Department, shows that the percentage, as adjusted, of motor vehicles exceeding 55 mph on roads posted at 55 mph in the State is greater than 50 percent, the Administrators of the FHWA and NHTSA shall make a proposed determination of noncompliance and shall notify the Governor of the State of that proposed determination by certified mail.

(b) Within 30 days from the date of receipt of the Administrators' letter, the State may request a meeting to discuss compliance status and, if applicable, the amount and timing of any reduction of apportionments. The meeting will be held with the Administrators and/or their representatives A transcript of that meeting will be prepared. If the State does not request a meeting, it may, within 30 days of its receipt of the letter, submit a written response for consideration by the Department. Documents also may be submitted prior to, or at, the meeting if one is requested. The request for a meeting and/or additional written documentation shall be submitted to the Administrators of the NHTSA and the FHWA, jointly. Requests for extension of time to comply with these response requirements shall also be submitted to the Administrators, and shall include a statement of the basis for the request.

(c) If a State wishes to request a hardship deferral and/or request that its apportionments be reduced by an amount less than ten percent in the event of a determination of noncompliance, it shall advise the Administrators of the basis for its request at or prior to the meeting referred to in subsection (b) of this section or in its written response to the Administrators' letter.

(d) The State may offer any information that it considers helpful to the Department's consideration of the matter of sanctions, including, but not limited to, legislative actions, budgetary considerations, judicial actions, past and current operational enforcement programs, as well as proposals for specific new programs.

(e) On the basis of the information provided by the State and other information in the possession of the Department, the Secretary will issue a final decision, in writing, regarding the State's compliance and, if applicable, the amount and timing of any reduction of apportionments. A copy of that decision will be transmitted promptly to the State.

[FR Doc. 89-14232 Filed 6-15-89; 8:45 am]
BILLING CODE 4910-22-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3601-2]

Approval and Promulgation of Implementation Plans; Revision to the State of New Jersey Implementation Plan for Ozone

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) revisions submitted by the State of New Jersey. This revision will reduce emissions of volatile organic compounds from gasoline by limiting the Reid Vapor Pressure (RVP) of gasoline sold between June 30 and September 15 in 1989 and between May 1 and September 15 of each year thereafter to 9 pounds per square inch. EPA is also finding that the New Jersey RVP regulations are "necessary to achieve" the national ambient air quality standard (NAAQS) for ozone and are therefore excepted from preemption under section 211 of the Clean Air Act. The intended effect of this action is to make necessary progress towards attainment of the ozone standard as expeditiously as practicable as required under the Clean Air Act.

EFFECTIVE DATE: This action will be effective June 30, 1989. The Administrator has determined that there is good cause, within the meaning of 5 U.S.C. 553(d)(3), to make this action effective less than 30 days after publication. The industry has been on notice since the Administrator approved the Massachusetts RVP SIP (54 FR 19173; May 4, 1989) that the Administrator was inclined to approve inconsistent state RVP rules to the extent necessary to provide for attainment. Making this action effective on the same date as the Massachusetts, Connecticut and Rhode Island RVP rules provides the industry with a uniform effective date for all the state rules limiting RVP to 9.0 psi in the northeast. In addition, postponing the effective date beyond June 30 would undermine the State's ability to achieve the reductions in 1989 summer ozone concentrations for which the RVP program was intended.

ADDRESSES: Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 26 Federal Plaza, Room 1005, New York, New York 10278.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460.

New Jersey Department of Environmental Protection, Division of Environmental Quality, Bureau of Air Pollution Control, 401 East State Street, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Mr. William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, Room 1005, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION:

Introduction

This notice describes EPA's decision to approve revisions to the New Jersey SIP which limit the volatility of gasoline from June 30 to September 15 in 1989 and from May 1 to September 15 every year thereafter. The remainder of this preamble is divided into four sections. The first provides the background for this action, with respect to both chronology and the broad issues involved. The second section presents today's action and EPA's rationale. The third section summarizes the comments received on the proposed action and EPA's responses to them. The final section discusses the enforceability of New Jersey's regulation with regard to the test methods as discussed in EPA's proposed rulemaking notice.

Background

On November 12, 1987, the Commissioners of the Northeast States for Coordinated Air Use Management (NESCAUM) signed a Memorandum of Understanding expressing their intention to reduce the Reid Vapor Pressure (RVP) of gasoline to 10 pounds per square inch (psi) starting in the summer of 1988 and to 9 psi in the summer of 1989 and continuing every ozone season thereafter. Since there were delays in adopting necessary regulations, the 1988 limit of 10 psi was eliminated and New Jersey passed a regulation limiting the RVP of gasoline to 9 psi from May 1 to September 15 starting in 1989 and continuing each year thereafter. On January 27, 1989, New Jersey submitted a SIP revision to EPA for approval to implement this provision.

On March 22, 1989, EPA published a notice (54 FR 11868) taking final action on national regulation of RVP, to take effect this summer. The maximum allowed summertime RVP in New Jersey under the federal regulation is 10.5 psi. Under section 211(c)(4)(A) of the Clean Air Act (the Act), EPA's final action preempted inconsistent state control of RVP, except in California. In its final action, EPA noted that states could be exempted from preemption only if EPA finds it is "necessary" to achieve the National Ambient Air Quality Standards (NAAQS) as provided in section 211(c)(4)(C) of the Act. Section 211(c)(4)(C) of the Act states: "A State may prescribe and enforce, for purposes of motor vehicle emission control, a control or prohibition respecting the use of a fuel or fuel additive in a motor vehicle or motor vehicle engine if an applicable implementation plan for such State under Section 110 so provides. The Administrator may approve such provision in an implementation plan, or promulgate an implementation plan containing such a provision, only if he finds that the State control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements." In its March 22, 1989 notice, EPA made specific note of the NESCAUM states' initiatives and the conditions for EPA approval of state RVP regulations.

On March 28, 1989, EPA published a notice (54 FR 12654) proposing approval of the New Jersey SIP revision. EPA also proposed to find that these revisions were "necessary" to achieve the NAAQS for ozone within the meaning of section 211(c)(4)(C) of the Act and, thus, meet the requirements for an exception to federal preemption.

Description of Today's Action

EPA today approves revisions to the New Jersey SIP which limits gasoline volatility to 9 psi between June 30 and September 15 in 1989 and between May

1 and September 15 in each year thereafter. The New Jersey program includes authority for the State to issue waivers to individual suppliers if necessary to avoid supply dislocations. EPA is approving the program as a whole, including any waivers the State might issue under this authority. This aspect of EPA's approval is discussed in full under section 9 of the next portion of this notice describing EPA's response to comments.

EPA is also explicitly finding that the New Jersey revisions are "necessary to achieve" the NAAQS within the meaning of section 211(c)(4)(C) of the Act. This means that New Jersey's RVP regulations are not preempted by the federal RVP regulations promulgated on March 22, 1989.

EPA's rationale for this action and its effective date are presented below. In this context many issues raised by commenters on the proposal will be addressed. The remaining comments will be discussed in the next portion of this notice.

In approving the New Jersey RVP SIP revisions, EPA must consider requirements imposed by two different sections of the Clean Air Act. As with all SIP revisions, Section 110 provides the requirements for approval into the SIP. In this case, since EPA has promulgated federal RVP regulations, section 211(c)(4)(A) preempts inconsistent state control. However, section 211(c)(4)(C) provides that the Administrator may except a state RVP control program from preemption if he finds it is "necessary" to achieve the NAAQS. Thus, the New Jersey revisions must satisfy both section 110 and section 211 requirements to gain approval.

EPA has concluded that the New Jersey RVP regulations are "necessary" to achieve the ozone NAAQS. In reaching this conclusion EPA has followed the test first articulated in approving the Maricopa County, Arizona SIP (53 FR 17413 (May 18, 1988) and 53 FR 30228 (August 10, 1988)) and later presented in the proposed approval of the New Jersey revisions. EPA stated that if, after accounting for the possible reductions from all other reasonably available control measures, New Jersey could demonstrate that RVP controls are still required to achieve the standard, then RVP controls are necessary within the meaning of section 211(c)(4)(C). EPA will not interpret that provision to require a state to impose more drastic measures such as driving prohibitions or source shutdowns before it can adopt its own fuel control program.

As discussed in the notice of proposed rulemaking (NPR), the record indicates that New Jersey needs volatile organic compound (VOC) emission reductions on the order of at least 31.9 percent from 1987 inventory levels to achieve the standard. The State reviewed approximately 22 measures suggested by EPA as reasonable in addition to RVP control to 9 psi and found they could together potentially achieve a 26.4 percent reduction from 1987 levels. As indicated at proposal, while EPA's regulation of gasoline to 10.5 psi reduces the emission reduction attributable to the State regulation, it does not affect the bottom line—a shortfall will still exist. EPA's technical review of the data presented in the State submission and by the commenters affirms the conclusion that a shortfall will exist even with all reasonable State and federal measures.

EPA continues to believe that the fact that the State RVP regulation might not by itself fill the shortfall and hence by itself achieve the standard does not mean the rule is not "necessary to achieve" the NAAQS. It is simple logic that "necessary" is not the same as "sufficient." EPA believes that the "necessary to achieve" standard must be interpreted to apply to measures which are needed to reduce ambient levels when no other measures that EPA or the State has found reasonable are available to achieve this reduction. Beyond such identified "reasonable" measures, EPA need look at other measures before RVP control, only if it has clear evidence that RVP control would have greater adverse impacts than those alternatives. EPA has no such evidence here. Therefore, EPA can defer to New Jersey's apparent view that RVP control is the next less costly (or is itself a reasonable) measure. Thus, EPA concludes that New Jersey's RVP regulations are "necessary" to achieve the NAAQS.

Summary of Public Comments and EPA's Responses

The major issues discussed in the comments are: (1) What constitutes a finding of "necessary to achieve" the standard under section 211(c)(4)(C); (2) whether there has been an adequate technical demonstration that controlling RVP to 9 psi is "necessary" (i.e. whether the threshold for exemption from preemption has been crossed); (3) the scope of EPA's discretion assuming a finding that State RVP controls are necessary to achieve the standard; (4) what effect the 9 RVP limit in New Jersey will have on the cost and supply of gasoline in the State and the Northeast; (5) driveability and safety concerns; (6) whether there is an ozone problem in New Jersey; (7) whether the State has an adequate enforcement program or sufficient resources to implement the State regulations; (8) whether the State provided "reasonable opportunity" for public comment; (9) what exemptions or waivers from the State regulations should be allowed; (10) the appropriate timing for making the State regulation effective; and (11) whether EPA should withdraw or repropose this action or reopen the public comment period in light of EPA's recent promulgation of federal RVP regulations and other alleged deficiencies in EPA's proposed action. Each issue is explored in detail below.

1. What constitutes a finding of "necessary to achieve" the standard under section 211(c)(4)(C) of the Act?

a. Making the "Necessary" Finding Without a Demonstration of Attainment

Comments: One group of comments questioned EPA's ability to make a finding that New Jersey's RVP regulation is necessary to attain the ozone standard without going through the complete planning process involved in approving a state's response to EPA's finding that the current SIP is substantially inadequate to achieve the standard (the "SIP call"). Several comments stated that EPA cannot approve New Jersey's RVP regulation as a SIP revision without finding that the SIP as a whole achieves attainment of the NAAQS for ozone. Related comments questioned EPA's ability to determine whether New Jersey's RVP controls are necessary without a new updated inventory of VOC sources which EPA will require from the states with ozone nonattainment areas as part of their response to the SIP calls.

Response: Through its SIP calls, EPA has imposed on states like New Jersey an obligation to revise their ozone SIPs and demonstrate attainment of the standard. The thrust of these comments is that EPA cannot make a finding of necessity without the states' first having gone through the new planning process and developing a new demonstration of attainment. EPA does not interpret section 211(c)(4)(C) to require a complete demonstration of attainment in order to approve a measure which will contribute to attainment.

Forcing a state to demonstrate attainment before allowing it to adopt stricter fuel controls would yield perverse results. Areas with the worst ozone nonattainment problems, which have the most difficulty assembling a demonstration of attainment, would be disabled for perhaps several years from adopting clearly necessary controls

which were stricter than the national RVP controls. Several commenters noted that New Jersey so far has not been able to identify any combination of control measures which would bring the State into attainment. It is precisely in areas like New Jersey, with an especially difficult nonattainment problem, where the expeditious implementation of new controls, and hence the finding of necessity under section 211(c)(4)(C), is most appropriate.

Beyond that, it is reasonable for EPA to use the best information it now has available to determine whether New Jersey's RVP program will be necessary to achieve the standard without having to wait for New Jersey to complete its planning response to the SIP call, including its updated inventory. As explained below, the VOC inventory and reduction figures New Jersey submitted to EPA were based on reasonably reliable models EPA has used in the past. Such figures are always capable of refinement, but in the Agency's judgment the expenditure of time required to do so is not worth the marginally improved accuracy. *See Vermont Yankee Nuclear Power* v. *N.R.D.C.*, 435 U.S. 519, 554–555 (1978).

EPA has not yet set a date certain by which New Jersey must attain the ozone standard. Congress may address the widespread nonattainment problem in the amendments to the Act now being considered. In the meantime EPA has also proposed its own policy for how to deal with SIP planning for nonattainment areas in the post–1987 period (52 FR 45104, November 24, 1987). The air quality analysis New Jersey submitted made it clear that RVP control beyond the federal requirements will be necessary to any attainment plan, whether the attainment date that Congress or EPA selects is imminent or long-term. Moreover, there is widespread agreement among EPA and the states in the Northeast that major VOC reductions, probably exceeding the 31.9 percent estimated by EPA in this case, will be required to get close to attaining the ozone standard. Nothing in the air quality data from the summer of 1988, which have become available in quality-assured form since publication of the proposal, indicates that the reduction requirement projected by the New Jersey analysis overstates the reduction necessary to achieve the standard. Beyond that, the history of ozone planning over the last decade makes it clear that reduction targets are seldom overestimated.

Furthermore, EPA's approval of this revision now is consistent with section 110(a)(2)(A) of the Act, which requires attainment "as expeditiously as practicable." Interpreting section 211(c)(4)(C) to require a complete attainment demonstration before EPA can approve (and a state can implement) a fuel control that the state has determined to be practicable and that would advance the attainment date would effectively put section 211(c)(4)(C) in conflict with section 110(a)(2)(A). It is doubtful that Congress intended EPA to choose an interpretation that would create such a conflict.

b. The Standard EPA has Applied to Determine Whether Fuel Controls are Necessary Compared With Other Controls

Comments: Several commenters maintained that EPA had not adequately analyzed whether there are other control strategies reasonably available which New Jersey should implement before resorting to RVP controls inconsistent with the federal regulation. EPA will address these comments in section 2c below. Other comments concerned the standard that EPA should use to determine whether RVP controls are necessary compared to other controls.

Response: In the proposal for this action, EPA used the approach it first announced when approving the Maricopa County Arizona SIP (53 FR 17413 (May 18, 1988); 53 FR 30228 (August 10, 1988)) to determine whether RVP controls beyond the federal program are necessary to attain the ozone standard in New Jersey. Under that approach, if after accounting for the possible reductions from all other reasonable control measures, New Jersey could demonstrate that RVP controls are still required to achieve the standard, then RVP controls are necessary within the meaning of section 211(c)(4)(C). For the reasons stated in the Arizona action and the New Jersey proposal, EPA will not interpret section 211(c)(4)(C) to require a state to impose more drastic measures such as driving prohibitions or source shutdowns before it can adopt its own fuel control program.

New Jersey has demonstrated to EPA that implementing all the control measures which EPA now believes to be reasonably available to New Jersey for VOC control (including measures that the State has already adopted and is now beginning to implement) would not achieve compliance with the ozone standard. The roster of control measures New Jersey examined corresponds to the list of controls EPA has identified for states to implement in response to the ozone SIP calls, and represents EPA's best judgment as to the controls which could now be reasonably implemented. See EPA's proposed post-1987 ozone policy (52 FR 45104, appendix C, November 24, 1987). After examining all controls EPA has determined to be reasonable, a state is free to make its own determination as to what control measures should next be employed.

One comment maintained that EPA's method for determining what is necessary is too vague because it would allow EPA to approve state fuel controls "simply because alternative measures are more inconvenient, unpopular, or costly." As discussed in section 2c below, EPA examined reasonable alternative controls which New Jersey could implement and determined they would not achieve enough reduction to achieve the standard. EPA also has determined that remaining controls such as gas rationing, driving reductions, and source shutdowns are so drastic that the State may resort to fuel controls first. This judgment concerning what is too drastic is a complicated policy determination requiring the Administrator to weigh precisely those factors which the commenter would exclude from his consideration—whether the remaining alternatives are costly or unpopular. In *Amoco Oil Co.* v. *Environmental Protection Agency*, 501 F.2d 722, 740-741, the court distinguished between the factual foundation which EPA must provide in its administrative decisions and policy judgments which are an integral part of the findings Congress requires the Administrator to make under the Act:

> Where by contrast, the regulations turn on choices of policy, on an assessment of risks, or on predictions dealing with matters on the frontiers of scientific knowledge, we will demand adequate reasons and explanations, but not "findings" of the sort familiar from the world of adjudication.

Id. at 741. EPA's and New Jersey's analysis of reasonably available controls is based on a factual record supported by the best analytical tools the agencies had available to them at the time. EPA's judgment that State fuel regulation is a less drastic course than gas rationing and other unpopular controls so far not implemented in any SIP is clearly a matter on the frontier of air pollution control planning, and therefore cannot (and need not) be supported by the same technical record as, for example, EPA's determination that New Jersey needs at least a 31.9 percent reduction from its 1987 inventory to attain the standard.

2. Have New Jersey and EPA made an adequate technical demonstration that controlling RVP to 9 psi is "necessary" to attain the NAAQS?

a. Adequacy of Emission Inventory

Comments: Several petroleum industry commenters argued that the emission inventory used in the technical demonstration is inadequate. They pointed out that EPA has already requested that New Jersey prepare a new inventory as part of its response to the SIP call. Therefore it is argued that New Jersey's reliance on the old inventory is inappropriate.

Response: As described in EPA's Technical Support Document (TSD), the emission inventory used by New Jersey and reviewed by EPA is based on EPA's "Compilation of Air Pollutant Emission Factors," known by its document number "AP–42." This document and its updates are EPA's longstanding guidance for determining emissions for inventory purposes and has served as the basis for ozone SIP inventories since the mid-1970s. Mobile source emissions were estimated using the then current version of EPA's mobile source emissions model, MOBILE3, consistent with standard EPA guidance. While EPA has called for many states, including New Jersey, to update their inventories for post-1987 SIP planning purposes, the Agency has continued to use existing inventories in evaluating current control proposals. EPA expects the New Jersey inventory, not due until late 1989, to show higher emissions than the current inventory since it is expected to include more sources and improved quality assurance. Thus, if the current inventory is lacking, it understates current emissions and errs such that the likely percentage reduction needed to attain the standard is also understated.

As stated in the NPR, EPA believes that if there is an error in quantifying the emission reductions resulting from control to 9 psi, those reductions are understated. If the newly released mobile source emission model, MOBILE4, which includes the effects of running losses, were used, one would expect the reduction in tons of VOCs to increase significantly. Furthermore, contrary to the commenters' belief, the estimated emission reduction is based on reductions achieved during only the four and one-half months each year the regulation is effective. This approach may understate the reduction since 9 psi fuel may be in the distribution system up to two additional months on each end of the regulatory season.

Also, contrary to the commenters' claims, EPA's TSD does contain an estimate of the emission reduction achieved by going from EPA's 10.5 psi limit to New Jersey's 9 psi limit. EPA estimated a 2.3 percent reduction from the 1987 inventory. This estimate does account for nonlinearity in emission reductions with decreasing RVP limits.

b. Appropriateness of the Modeling Demonstration

Comments: While some commenters agreed that modeling was necessary to evaluate the air quality benefit of the RVP reduction, they objected to EPA's reliance on the Regional Oxidant Model (ROM). The commenters also raised concerns about the appropriate hydrocarbon to nitrogen-oxides (NOx) ratios to be used in such modeling. A third modeling issue concerns New Jersey's and EPA's inability to associate a quantified increment of improved air quality with the control of RVP to 9 psi.

Response: The claim that the ROM does not provide the spatial resolution needed for accurate prediction in individual urban areas loses sight of the fact that we are evaluating a statewide program. The Urban Airshed Model suggested by the commenters is appropriate for large urban areas but would have to be run over at least two different geographic domains to cover the entire state. Caught between the two available model scales, it is EPA's technical judgment that the ROM is an appropriate tool to use in evaluating future reductions needed for New Jersey.

EPA understands the concern that past strategies have focused almost exclusively on controlling VOCs instead of NO_x. As indicated in EPA's proposed post-1987 ozone strategy, future control scenarios are likely to include NO_x. However, it is highly unlikely that NO_x control alone will suffice. The best technical information available to EPA at this time concerning the Northeast ozone problem points to the need for substantial VOC reductions and at least modest NO_x reductions in the future to attain the ozone standard.

The last modeling issue concerned New Jersey's and EPA's inability to associate a quantified increment of improved air quality with the control of RVP to 9 psi. While such a modeling exercise would be ideal, it is unlikely that one would have much confidence in the outcome of such a sensitivity test. The atmosphere's response to emission reductions of ozone precursors is highly nonlinear such that small increments of reduction may show little or no effect on their own. However, when the reductions from the State's many strategies are aggregated, the total impact becomes quantifiable. Thus, even though New Jersey and EPA cannot pinpoint where the air quality will improve by what amount on what day, we are confident that there will be a net improvement in ozone levels if New Jersey were to decrease VOC emissions by 2.3 percent.

c. Consideration of Other Alternatives

Comments: Commenters expressed concern that New Jersey and EPA have failed to consider other significant alternative control measures that could lead to attainment, including Stage II vapor recovery systems, controls on municipal landfills, source categories that are listed in EPA's proposed post-1987 strategy and a host of transportation control measures (TCMs). Other comments inquired as to how New Jersey and EPA arrived at the reductions for the control strategies that were presented in the NPR and TSD.

Response: EPA believes that sufficient alternatives were considered. EPA and the State have considered the emission reduction potential of 22 different point and area source categories corresponding to most of those suggested by EPA in its proposed post-1987 ozone policy (52 FR 45104, appendix C, November 24, 1987). Not surprisingly, some of the source categories are not applicable (as noted in the TSD) because there are no major sources in those categories in New Jersey or because the State has already adopted controls for those categories. As noted in the NPR, most of the relevant categories have potential reductions that are very small and, when combined, total less than 0.6 percent of the 1987 inventory. While, as one commenter noted, some of EPA's proposed post-1987 categories were not evaluated by the State (such as traffic maintenance paint), based on EPA's experience with these categories in other states, it is anticipated the contribution from them would be significantly less than one percent. As mentioned in the NPR, other strategies previously identified by the State as having the greatest potential for significant future VOC reductions that have not been fully implemented would produce emission reductions on the order of 25.8 percent, for a combined total reduction of 26.4 percent in conjunction with the minor categories mentioned above. This would still leave a shortfall of 5.5 percent.

Two commenters noted that the proposal did not account for the emissions reductions from Stage II vapor recovery systems or from controls on emissions from municipal landfills. New Jersey adopted Stage II controls on

February 22, 1988 and controls on emissions from municipal landfills on June 1, 1987. Since both regulations have been submitted to EPA as SIP revision requests and are currently being implemented by the State, the shortfall discussed in the NPR was calculated above and beyond the reductions attributable to these controls.

It is true that New Jersey has not implemented the types of TCMs suggested by EPA in its proposed post-1987 ozone strategy. However, based on EPA's experience with the implementation of these measures in other areas, we expect that New Jersey would only achieve an additional 2.0 percent reduction by adopting similar strategies. New Jersey would still have an estimated shortfall of approximately 3.5 percent.

While EPA recognizes that other TCMs may be needed in New Jersey, the remainder are difficult to quantify, yield small reductions individually, and, as evidenced by the public reaction to the EPA-promulgated implementation plans containing such measures in the 1970's (see H.R. Rep. No. 95-294, 95 Cong. 1st Sess., reprinted in 4 Legislative History of the Clean Air Act Amendments of 1977, at 2748-55 (1978)), generally can be expected to have more significant adverse effects on the public as a whole than RVP controls would. To be sure, if there were sufficient evidence for EPA to conclude that the state's RVP controls would result in significantly more severe impacts than other measures that neither EPA nor the state has yet identified as "reasonable" for the state to implement, then it might well be appropriate for the Agency to account for the emission reductions that those other measures would achieve before determining the shortfall against which to judge the RVP controls. The Agency does not believe, however, that the State's RVP control would produce significantly more severe effects than such alternatives (e.g., than a trip reduction ordinance of the type that Arizona found reasonable for application in Phoenix and Tucson).

The shortfall demonstration presented in EPA's NPR and TSD was the outcome of a comprehensive review of the air quality and State Implementation Plans for the ozone and carbon monoxide nonattainment areas of New York and New Jersey which was performed by the Air and Waste Management Division of EPA Region II. This review, entitled "An Evaluation of the Programs to Attain the Ozone and Carbon Monoxide Standards in New Jersey and New York," examined air quality data for the period 1981 through 1986, modeling studies, and SIP commitments to determine air quality trends and predict the ability of each state to attain the standards.

In sum, New Jersey and EPA have indeed examined a broad range of potential emission reduction strategies and have still identified a significant shortfall in the level of emission reductions likely to be needed to achieve the ozone standard.

3. What is the scope of EPA's discretion assuming a finding that State RVP controls are necessary to achieve the standard?

a. Permissible Bases for EPA's Decision To Approve State RVP Controls

Comments: Several commenters asserted that even where EPA has determined that state fuel controls are necessary to achieve the standard, EPA may nevertheless disapprove those controls if EPA determines that the economic or fuel supply impacts of the state's regulation are unreasonable. These commenters suggested that EPA may give significant consideration to costs because section 211(c)(4)(C) provides that the Administrator "may" approve a SIP revision imposing state fuel controls once he makes the finding of necessity. Conversely, other commenters maintained that EPA may not disapprove the New Jersey SIP revision based on economic grounds, once EPA has made the finding of necessity.

Response: EPA believes that it must consider cost to some limited extent whenever the Administrator decides whether to make a finding under section 211(c)(4)(C) that a fuel measure is "necessary" for attainment. As discussed above, to determine whether state fuel controls are necessary, EPA must look first at whether other measures that it determines are reasonable (and, perhaps, other measures the state has adopted) will by themselves achieve timely attainment. Arguably, an alternative measure is "reasonable" only if its effects are less drastic than the effects of the fuel controls. Clearly the cost and supply impact of the state fuel controls will be a factor in any such judgment.

EPA does not interpret the use of "may" in section 211(c)(4)(C) to give the Administrator unfettered discretion to disapprove the SIP revision on economic grounds once he has made the finding that state fuel controls are necessary to achieve the standard. Section 211(c)(4)(C) must be read in the context of the preemption created in section 211(c)(4)(A), which prohibits states from adopting inconsistent fuel controls in their SIPs, or anywhere else, for air pollution control purposes. In the face of this prohibition, the sole effect of the "may" in section 211(c)(4)(C) is to authorize the Administrator to overcome a provision (section 211(c)(4)(A)) that would otherwise bar him from approving the SIP revision. The use of "may" in section 211(c)(4)(C) does not eliminate the obligation that section 110(a)(3)(A) places on the Administrator to approve the SIP revision, provided it meets the requirements of section 110(a)(2). *See Train* v. *Natural Resources Defense Council, Inc.*, 421 U.S. 60, 98 (1975). Section 110(a)(2) requires the Administrator to approve a SIP revision if, among other things, it may be necessary to insure attainment and maintenance of the standard. Section 110(a)(2)(B). EPA may not consider the economic impact of a necessary SIP revision under section 110(a)(2); under that provision, it is for the state to determine what economic costs are appropriate to achieve the standards. *Union Electric Co.* v. *E.P.A.*, 427 U.S. 246, 256-258 (1976). Beyond that, it would be incongruous for Congress to give EPA more discretion to reject a SIP revision for reasons unrelated to the goal of achieving the standard as quickly as possible precisely where EPA has determined that a SIP revision is necessary to achieve the standard. Therefore, once EPA makes the finding that state fuel controls are necessary to achieve the standard, a finding which includes a determination that such fuel controls are more reasonable than other available measures, EPA may not reject a state's SIP proposal simply for economic reasons.

One commenter cited *Motor Vehicle Manufacturers Association* v. *E.P.A.*, 768 F.2d 385, 389-390 (D.C. Cir. 1985), for the proposition that the use of "may" under section 211 commits the decision to the discretion of the Administrator. In *MVMA* the court was examining EPA's decision to grant a waiver under section 211(f)(4) of the Act for the use of fuel additives not substantially similar to those in the fuel EPA uses to certify the emissions from automobiles. The court was not examining section 211(c)(4)(C), which allows EPA, upon making a particular finding not mentioned in section 211(f)(4), to act on a SIP revision submitted by a state after full hearing at the state level and subject to the requirements of sections 110 (a)(2) and (3)(A).

b. Intent of Federal Preemption Under Section 211

Comments: Several commenters insisted that EPA should disapprove

New Jersey's RVP controls because Congress intended to avoid a patchwork of different state fuel controls in favor of a uniformly regulated national market for fuels. These commenters expressed concern that the exception in section 211(c)(4)(C) to the rule of preemption under section 211(c)(4)(A) would eventually swallow the rule. Several comments urged EPA not to act inconsistently with its decision not to limit gasoline to 9 psi in 1989 in the federal RVP control program.

On the other hand, several comments were aimed at urging EPA to support the regional approach to RVP control that the NESCAUM states are undertaking. One commenter pointed out that where Congress has not acted to address the ozone nonattainment problem, it is reasonable to let the states do all they can to attain.

Response: It is clear that section 211(c)(4)(A) indicates that Congress desired to maintain a nationally regulated market for fuels. It is equally clear that section 211(c)(4)(C) indicates Congress recognized that there will be states where the air quality problem is so severe that the interest in a nationally regulated market must bow to the need for additional state controls on fuel content. EPA has not been able to find any legislative history which illuminates with any detail beyond the language of the Act how EPA should strike this balance.

It is reasonable to infer that Congress was aware that the air quality needs of particular states might create varying fuel content requirements, and that Congress accepted that risk in favor of protecting the public health. Several commenters cited *Exxon Corp.* v. *City of New York*, 548 F.2d 1088 (2d Cir. 1977), as precedent that a uniformly regulated fuel market is the overriding purpose behind section 211(c)(4). In *Exxon* the court, however, was not faced with a claim for an exception to preemption under section 211(c)(4)(C), and specifically left it to EPA to determine whether such an exception is appropriate:

> The Act sensibly provides for an exception from its comprehensive preemption of local regulation of motor vehicle fuels only when such regulation is a provision in a state implementation plan approved by the Administrator who has the competence to make the needed professional engineering and energy conservation decisions.

Id. at 1096. Once EPA has made a finding of necessity under section 211(c)(4)(C), it is reasonable for EPA to interpret the Act to place paramount importance on protecting public health and achieving the standard.

EPA believes that the oil industry's concern that the exception will swallow the rule is overstated. As described above, EPA will approve inconsistent state fuel controls only where the state can demonstrate that exhausting all other reasonable alternatives will not achieve the standard, taking costs into account in determining reasonableness. This demonstration is not a trivial hurdle, and it is highly unlikely that every state with an ozone nonattainment area could make such a showing. Furthermore, a state is unlikely to burden its citizens with the potentially higher cost of lower RVP fuel unless the air quality needs are compelling. Finally, regional initiatives such as NESCAUM's help avoid a wide variety of state controls. In this case, the New Jersey RVP program is virtually identical to the RVP programs already approved for Massachusetts, Rhode Island, and Connecticut, and, thus, provides supply requirements consistent with other Northeast states.

EPA also believes that its decision not to impose a limit of 9 psi by 1989 in EPA's RVP control program does not preclude EPA from approving New Jersey's SIP revision. When developing its federal RVP control program, EPA imposed controls across the nation, and had to determine the level of RVP control which supply sources for the entire continental United States could reasonably meet. Further, although EPA was able to make this determination as to particular regions within the country, EPA did not intend to account for the particular air quality needs of each state.

4. What effect will the 9 RVP limit in New Jersey have on the cost and supply of gasoline?

Comments: Several commenters stated that New Jersey's regulation would strain the distribution system and could cause some significant supply dislocation and cost increases. Several stated that even if refiners had the capacity to produce 9 psi gasoline, there would be logistical problems requiring the need for additional storage tanks for the gasoline and excess butane. Other comments suggested that foreign imports at 9 psi might not be available. Most of the oil company commenters stated that there will be some need for capital improvements at refineries to meet the 9 psi standard. Several commenters stated that there will likely be a cost impact to the New Jersey standard and other commenters stated that they were concerned about the increased cost. One other comment stated that the estimates of increased cost do not reflect the extra cost increase that could accompany a significant supply disruption.

Proponents cited two studies as support for the position that supply is not a problem.

Response: The potential supply problems arise out of two factors. First, decreasing the volatility of gasoline requires increased refinery capacity. It is certain that implementation of 9 psi volatility in the NESCAUM states will create a refining capacity reduction in the amount of gasoline capable of being produced at each refinery. This is true of both domestic and foreign suppliers. Second, the problem may be further exacerbated by the expected increased demand for gasoline in the summer months.

Various studies have been conducted to determine how much refining capacity will be lost from implementation of 9 psi volatility in the NESCAUM states, how much demand for gasoline is likely to increase in the summer of 1989, and what effect these factors will have on gasoline supply capabilities. The two studies done for NESCAUM and the one done for EPA are inconclusive. There appear to be numerous factors which make precise prediction of these effects impossible. However, under the EPA study (Sobotka study), estimates indicate that the volatility standard may be feasible without serious supply problems.

The Sobotka study cites the Department of Energy (DOE) as predicting that demand for gasoline should increase only in the range of 1 to 1.5 percent this summer. This estimate is also supported by other studies including one reported at a National Petroleum Refiners Association conference. The study also estimates that approximately a five percent refining capacity shortfall will occur at domestic refineries because of the volatility regulations in the Northeast states. The study estimates that with a 1.2 percent increase in demand for gasoline in the summer, U.S. refineries would be able to make up for a five percent domestic shortfall, and a ten percent import shortfall, without construction of new facilities or installation of additional equipment. Although various factors make it impossible to accurately predict the refining shortfall of imported gasoline, there is no strong evidence indicating that it will exceed ten percent. Thus, the Sobotka study suggests that it is likely that the resulting refinery capacity shortfalls from a 9 psi standard in 1989 should not result in supply shortfalls.

In the unlikely event of unforeseen supply disruptions, the State of New

Jersey has assured EPA that they have the authority to take immediate steps to provide needed waivers or exceptions to the program. The State has committed to carefully monitor the supply situation this year and take appropriate action, as may be necessary, to ensure that supply problems do not occur as a result of its State RVP control program. See also the response to section 9 later in this notice for more discussion of State waivers or exceptions.

5. What effect will 9 RVP gasoline have on driveability in cold weather and on vehicle safety?

Comments: Several commenters expressed concern that the 9 RVP fuel would cause hard starting, hesitation, and stalling in automobiles during the early spring and late fall. They stated that gasoline will have to enter the distribution system in March and will not be out until October in order to comply with the regulation. Other comments, including several from automobile manufacturers, indicated that there should be no adverse effect from the use of 9 RVP fuel.

Response: We believe that the nature of the gasoline distribution system makes it very unlikely that 9 RVP fuel will be available to consumers in March or early April, even if the blending-down process by that time has begun to reduce RVP. Continued availability of low-RVP fuel is even less likely by late October because the blending-up process will occur rapidly at the close of the control period. Nevertheless, the experience of California, which has required 9 RVP fuel for many years, appears to demonstrate that widespread driveability or fuel safety problems will not occur in the Northeast. We know of no evidence of extensive problems in California, despite significant operation at cool temperatures and high elevations.

As further evidence of this conclusion, one can compare the true vapor pressure (TVP) experienced in fuel tanks at different times during the year. For example, when corrected for elevation, gasoline in Billings, Montana at its January 1988 average RVP of 13.6 psi and at the historic low January temperature of −30 degrees Fahrenheit would result in a true vapor pressure of 1.0 psi. Similarly, for New Jersey, the analogous RVP and temperature of 10.0 psi RVP and −12 degrees F. would also result in a TVP of 1.0 psi. In contrast, 8.5 psi RVP fuel at an analogous New Jersey temperature of 18 degrees F. would result in a TVP of 1.8 psi, 80 percent higher than the winter figure. We conclude from this that if low-volatility fuel were to reach consumers during very low temperature weather, any degradation in driveability would be no greater (and would likely be less) than that experienced currently during the winter.

Conversely, low-volatility fuel should improve vehicle driveability in very hot weather by reducing the occurrence of such conditions as vapor lock and fuel foaming.

6. Is there really a severe ozone problem in New Jersey or the Northeast?

Comments: A number of industry commenters, in urging EPA to disapprove the SIP revision, claimed that the air is really becoming cleaner and cleaner over time and that the ozone standard is being met more than 99% of the year. Environmental groups countered these claims with data from 1987 and 1988 which show a worsening of the ozone problem since 1986. They noted that 1988 was one of the worst ozone seasons on record across the Northeast.

Response: EPA is firmly convinced that there is a serious ozone problem in the Northeast. EPA's conviction was evidenced by last year's SIP calls to New Jersey and most other Northeast states. This SIP call was based on 1985–1987 ozone monitoring data which ranked New Jersey among the worst ozone nonattainment areas in the country. EPA's concern is further heightened by the 1988 ozone season. The ozone standard was exceeded more frequently, at more sites, and at higher levels in 1988 than in 1987.

7. Has New Jersey demonstrated that it has an adequate enforcement program or adequate resources to implement the RVP regulation, as required by section 110 of the Act?

Comments: One commenter questioned whether New Jersey has developed an adequate program for enforcement of the regulation. Another commenter noted that New Jersey is the only NESCAUM state that would enforce its regulation at the retail level.

Response: EPA does not agree with the commenters' enforcement concerns. The state's decision to extend its RVP enforcement program down to the retail level reflects a concern that there may be the opportunity to increase the RVP of gasoline that has already left the refinery or bulk terminal by blending the gasoline with a higher RVP fuel before it reaches the retailer. This is a reasonable concern for the state since it is bordered by two states (Delaware and Pennsylvania) which will have different RVP fuel requirements. Opportunities to blend the differing RVP gasoline en route to the retailer to yield a noncomplying fuel would exist. In fact, EPA concluded in its national rulemaking that testing at all points in the distribution system would provide the "best safeguard" against distribution of noncompliant gasoline and would result in the "greatest likelihood" of achieving environmental results. Further, in comments submitted on EPA's proposed approvals of the Massachusetts, Connecticut and Rhode Island 9 RVP regulations (none of which enforce at the retail level), several petroleum industry commenters argued that an enforcement program that reaches the retail level is a minimum standard for the effective enforcement of RVP limits. EPA does not believe that the state's regulation will have a significant economic effect on retailers since they will not be required to test each shipment of gasoline received. Under the state's regulation, retailers are required only to keep complete and accurate records of all gasoline shipments, which is not an undue burden.

New Jersey has stated that it has adequate resources to conduct an enforcement program in support of the rule. The New Jersey Department of Environmental Protection (NJDEP) has developed an enforcement protocol which includes a prescribed schedule of announced and unannounced inspections. EPA must note that in the comparable arena of enforcement through Delayed Compliance Orders (DCOs), courts have held that EPA may not second guess the state's choice of enforcement mechanisms so long as the chosen system is a reasonable one. *Bethlehem Steel Corp.* v. *U.S. E.P.A.*, 638 F.2d 994, 1005–1006 (7th Cir. 1980); appealed, *Bethlehem Steel* v. *Gorsuch*, 726 F.2d 356 (7th Cir. 1984), reh. den., en banc, vacated on reh., 732 F.2d 97 (7th Cir. 1984), withdrawn and appealed, 742 F.2d 1028 (7th Cir. 1984).

Furthermore, even if New Jersey's enforcement scheme was inadequate to support a finding, ultimately, that the state's eventually complete ozone SIP update meets all of the requirements in section 110(a)(2), EPA could still approve the rule under section 110(a)(3). That is because, even with an inadequate enforcement program, the rule would still strengthen the pre-existing SIP and hence, under the rationale in *Michigan* v. *Thomas*, 805 F.2d 176, 186 (6th Cir. 1986), be approvable for that limited purpose.

8. Has New Jersey Satisfied the Act's Public Notice and Hearing Requirements?

Comments: Several comments received questioned whether the New Jersey SIP revision was adopted after "reasonable notice and public hearing." While acknowledging that public hearings were held, they alleged that the decision to limit RVP to 9 psi was actually made by NESCAUM some time before public hearings on the New Jersey RVP regulation, and that therefore any hearing nominally provided was substantively inadequate. On the other hand, NESCAUM commented that ozone pollution problems, especially in the Northeast, are clearly regional problems and must therefore be dealt with through consistent regulations.

Other comments questioned whether notice and hearing was provided on the SIP revision or just a State regulation. They believe it was unclear from the public notices and materials available before the hearing that the RVP rule was actually intended to be submitted as a revision to the SIP.

Response: As to the first claim, EPA's TSD provides the date that the public notice was published and contains an itemization of the public hearing dates. Although there is no summary statement that the public participation requirements for hearing and notice were met, the record does speak to that effect.

EPA finds concerns that the public hearings were largely meaningless and thus not "reasonable" to be misplaced. It is inferred that New Jersey and the other NESCAUM states had predetermined the outcome of the hearings before and without regard to the hearings held in those states. EPA is not at all convinced that the process was predetermined. If the commenters were aggrieved on this matter we would have expected them to challenge the state's proceedings under state law, as API has done in New York. However, no party challenged New Jersey's proceedings.

EPA acknowledges that New Jersey did initiate rulemaking on RVP control pursuant to an agreement on RVP control with the other Northeast states. However, having initiated the rulemaking on that basis, the state then proceeded to promulgate the regulations through its full administrative process, giving adequate notice and opportunity for public hearing on the proposed regulations.

As a policy matter EPA agrees that the ozone problem in the Northeast is a problem of regional magnitude and has held several meetings with top EPA and state environmental officials in EPA Regions I, II, and III to determine what concerted efforts the states could take on their own to deal with issues of regional, but not necessarily national, scope. Therefore EPA believes that it is appropriate for the northeastern states to regulate ozone precursors in a consistent fashion. However, each state must provide for adequate public participation in the promulgation of individual regulations, including assessing and responding to all submitted comments, as New Jersey has done in connection with its RVP regulations. As discussed more fully below, EPA reviewed the state's public participation procedures and determined that the state provided adequate opportunity for public input in connection with development of the RVP rules.

A commenter argued specifically that the state's hearing procedures were not adequate to comply with section 110 of the Act or EPA's hearing regulations at 40 CFR section 51.102. The operative language in both the statute and the regulation is "reasonable notice and public hearing." The commenter asserted that New Jersey predetermined its final decision on RVP regulation and thus the hearing provided was not reasonable.

However, EPA interprets the language of both the statute and the implementing regulations as requiring the state to provide, first, reasonable notice of a public hearing, and second, a public hearing. EPA does not believe that the law requires the Agency to review the hearing record and determine whether the hearing provided was itself "reasonable."

EPA's interpretation of the hearing requirement is clearly reflected in the regulations at 40 CFR 51.102. The regulations go into substantial detail on the manner in which states must provide notice of a hearing in order for that notice to be considered reasonable. See 40 CFR 51.102(d); see also 40 CFR 51.102(g)(2). However, the regulations make absolutely no mention of specific requirements for conduct of public hearings. The state need only certify that it in fact held a public hearing, which New Jersey clearly did, and need not provide any detailed information on the conduct of the hearing.

This is appropriate because the reasonableness of public notice can be assessed objectively by reviewing the amount and variety of notice methods used. Assessing the reasonableness of a hearing on the other hand would be a highly subjective determination done retrospectively that would unnecessarily infringe on the state's discretion in conducting its hearings. Of course, if EPA received concrete evidence that the hearing did not provide adequate opportunity for public participation, it could find that the hearing did not meet the intent of EPA's regulation. EPA has, however, received no such evidence.

The commenters further claimed that a state must specifically identify a proposed regulation as a future SIP revision prior to scheduling a public hearing on the regulation. However, neither the statute nor EPA's regulations contain any such explicit requirement. The purpose of a public hearing is to receive public input on the substance of proposed regulations, not on whether the state may or may not submit the regulations as a SIP revision. For years EPA has approved SIP revisions with no analysis of whether the state had publicly announced its intent to eventually submit a proposed regulation as a SIP revision at the state public hearing stage.

Generally it should be totally irrelevant to public commenters whether a regulation with which they will be required to comply as a matter of state law might also become an aspect of federal law. At the time New Jersey held its public hearings on the RVP rules, prior to federal preemption, commenters should similarly have had no concern as to whether the proposed State rule would eventually become federal law as well. Only where a state regulation would otherwise be preempted by existing federal law and therefore unenforceable would the public have a need to know that the state intended to seek federal approval of the regulation for purposes of preemption waiver in preparing comments at the state hearing level. This was not the case at the time of the state hearing on the New Jersey RVP rule. Moreover, given EPA's then outstanding proposal to regulate RVP and thus preempt state RVP regulation, it should have been apparent to commenters at the time of the public hearing that New Jersey would submit the rule as a SIP revision to insure enforceability in the event of EPA final RVP regulation and preemption.

9. Should Waivers or Exemptions From the State Regulations be Granted to Suppliers who Cannot Provide 9 RVP Gasoline?

Comments: Commenters expressed concern with potential inequities resulting from supplier-specific requests for waivers. They stated that the use of supplier-specific waiver provisions could diminish the calculated benefits of the rule by allowing higher RVP gasoline

into the system, and financially disadvantage those companies which are able to comply. They also expressed concern that the use of waivers and exemptions introduces uncertainties about whether the volatility regulations will be applied fairly and equitably to all gasoline suppliers.

The commenters concluded that if waivers or exemptions are to be used, they must apply to all suppliers and significant penalties should be attached. In addition, one commenter noted that EPA has to consider how it will respond to supplier-specific waiver requests; and EPA "is urged to adopt a policy on waivers which is consistent with its own RVP regulatory program."

Response: EPA is aware that New Jersey intends to grant waivers to individual suppliers if necessary to avoid serious supply dislocations during the initial stages of its RVP program. Although EPA did not focus on this aspect of the program in its NPR, commenters were also aware of the State's intentions and the issue was fully aired in the public comments. EPA is approving the New Jersey RVP program as a whole, which includes the ability of the state to issue waivers as appropriate. EPA is in essence pre-approving any waivers that New Jersey might grant as part of the overall RVP program being approved into the New Jersey SIP today. New Jersey will not be required to submit each waiver to EPA as a SIP revision before it may take effect.

EPA is currently able to pre-approve any waivers that New Jersey may grant because the RVP program is a discretionary program that the state has submitted to generate additional emission reductions and move the state closer to attainment of the ozone NAAQS. EPA is not pre-approving waivers from a federally required program or a program to which EPA has already assigned specific emission reduction credits as part of an overall attainment demonstration. EPA could not pre-approve waivers in such situations because they would constitute SIP relaxations. Here, whatever emission reductions New Jersey obtains from the RVP program, even after any waivers have been granted, will tighten the existing SIP and improve air quality.

EPA notes that its pre-approval of any waivers New Jersey may grant under the RVP program differs dramatically from approval of a generic permitting program such as a new source review or bubble program. In those cases, EPA authorizes states to approve relaxations of otherwise applicable SIP requirements provided that the state follows SIP approved procedures calculated to insure that all such waivers are accounted for in the SIP attainment demonstration and are issued using replicable evaluation techniques. Here, since EPA is not currently relying on the New Jersey RVP program for any defined emission reduction credit toward an approved attainment demonstration, EPA need not now analyze the criteria by which New Jersey will issue any waivers. New Jersey is free to issue waivers on the basis of its own state criteria, consistent with any requirements of its state administrative procedures act.

When New Jersey does submit its completed post-1987 attainment demonstration, EPA will assign specific emission reduction credits to the RVP program, taking account of any supplier-specific waivers the state may have issued by that time. Once EPA has approved the New Jersey post-1987 SIP, it will take whatever rulemaking action is necessary to ensure that any further waivers under the RVP program, which at that point would be considered SIP relaxations, would be submitted to EPA for approval as individual SIP revisions.

Finally, EPA notes that any suppliers who receive waivers from New Jersey must still comply with the federal RVP limit of 10.5 psi.

10. How soon after the date of final approval of the New Jersey revisions should the RVP regulations be made effective?

Comments: A great deal of the comments received commented on the timing of EPA's final action. Those favoring EPA approval of the SIP revision generally favored EPA acting quickly to make the regulations effective by their May 1 starting date or as close to that as possible. These commenters note that the Colonial Pipeline, which supplies 20 percent of the Northeast's gasoline, has been shipping 9 RVP fuel to the Northeast since March 1, 1989. They also pointed out that those suppliers who have made a good faith effort to comply with the May 1st date would be at a competitive disadvantage relative to those with cheaper, higher volatility gasoline if the date is extended.

Those opposing EPA approval of the SIP revision generally asked that if we did approve it we must provide the petroleum industry with realistic and sufficient lead-time to enable 9 psi gasoline to be distributed throughout the distribution system. These commenters cited EPA's allowing 70 and 100 days for the recently promulgated national regulations to become effective at the terminal and retail level respectively as precedent for such a decision. A third path, suggested by one commenter, would be for EPA to make its final approval conditional on the state's deferral of the compliance date for its regulation.

Response: The timing issue is one of the most difficult ones posed by this action. Since EPA has had control of the timing of the final federal RVP action, the decision on the previously granted Massachusetts, Rhode Island, and Connecticut RVP SIP revisions, and the decision on the New Jersey RVP revision, it is important that we insure that both the federal and state programs start with a maximum likelihood of success and a minimum possibility of supply disruption.

EPA must consider several issues in deciding when to make the rule effective. The first issue is when the industry was put on notice that it would have to supply 9 psi gasoline to New Jersey. Since the New Jersey rule was passed in 1988, the industry was on notice since then of the State's intention to control RVP to 9 psi. However, the New Jersey rule was preempted on March 22, 1989 by the promulgation of the federal volatility requirements.

Another issue to consider is the lead-time that would be necessary to enable 9 psi gasoline to get through the distribution system. The record indicates that the industry thought that it would take from 60 to 70 days to achieve compliance at the terminals in New Jersey. The record also indicates that the Colonial Pipeline, which supplies at least 20 percent of the gasoline in the Northeast, has been shipping 9 psi gasoline since March 1, 1989.

The final issue involves the air quality consequences of delaying the effective date. EPA should not delay action on a SIP revision in such a manner as would thwart the State's intent in requesting the SIP revision. New Jersey's submittal of the RVP SIP revision in January was clearly aimed at getting its regulatory program in place for the 1989 ozone season. Thus, it is important to have the effective date as early as possible in order to maximize the air quality benefits of the program in 1989.

In deciding to make this action effective on June 30, 1989, EPA has attempted to balance these competing interests. EPA believes that this effective date will both minimize possible difficulties the industry might encounter with a shorter lead-time and provide citizens in the Northeast as much relief as is practical during most of the 1989 ozone season. Although some suppliers may have made a good faith effort to comply with the May 1 effective

date specified in the New Jersey proposal, they were under no obligation to do so once EPA preempted the New Jersey requirement by promulgating federal RVP controls on March 22, 1989. The Agency cannot, therefore, select an earlier effective date for all suppliers based on the voluntary action of a few, especially considering that the time between the March 22 federal rulemaking and today's publication is critical to the refiner/supplier planning and implementation process regarding fuel delivery for the coming summer.

However, because refiners have already begun to prepare for the sale of 9 RVP fuel as a result of EPA's approval of the Massachusetts, Rhode Island, and Connecticut RVP SIPs and in light of the fact that these states share many links in the gasoline distribution network with New Jersey, the Agency does not believe that an additional 60 to 70 days lead-time is warranted. This starting date in New Jersey, therefore, mirrors the starting date in Massachussets, Rhode Island, and Connecticut.

11. Should EPA reopen the comment period or withdraw and repropose this SIP revision in light of EPA's final action on the national RVP regulation and other alleged defects in the March proposal?

Comments: EPA received divergent comments on the appropriate process for and timing of a final action on New Jersey's SIP revision. Several commenters argued that EPA should take final action as soon as possible. On the other hand, other commenters felt that because of numerous allegedly unresolved issues raised in their substantive comments, EPA should at a minimum repropose action on the revision to deal with these issues before proceeding to final action.

Response: EPA concludes that given its interpretation of the relevant law and the seasonal nature of the New Jersey revisions, the Agency should proceed expeditiously to final action based on the record currently before it. EPA is unpersuaded by the claim that circumstances have so changed since the proposed approval of the New Jersey revisions that we should reopen the comment period or withdraw and repropose this action. EPA's NPR for the New Jersey RVP program explicitly discussed EPA's final action on the national RVP program relevant to final action on the State program. EPA clearly presented the path which EPA proposed to follow and the conclusions which we proposed to reach in light of the final promulgation of federal RVP regulations. Furthermore, in the final **Federal Register** notice on the national RVP program, EPA explicitly discussed consideration of different state RVP control programs.

In this case EPA concludes that it is not necessary to issue a reproposal prior to taking final action. EPA believes that it has adequately responded to all of the substantive comments raised by commenters in the substantive discussions presented above. Obviously, additional analysis on such technical issues could always be conducted. However, administrative agencies generally have the discretion to determine when issues have been aired sufficiently and to close the record and proceed to final action, consistent of course with the need to act in a reasoned, non-arbitrary fashion (*Vermont Yankee Nuclear Power* v. *N.R.D.C.*, 435 U.S. 519, 554-555 (1978)).

Further, EPA should not delay action on a SIP revision in such a manner that would thwart the State's intent in requesting the SIP revision. In this case, New Jersey has submitted a seasonal requirement that since currently preempted must be approved in a timely fashion in order to effectuate the state's intent that the regulations provide emission reduction benefits in the upcoming summer ozone season. Therefore, EPA should make best efforts to act on the information available to it now to the extent that it is adequate or else the agency would thwart the State's intent with regard to the 1989 ozone season. Since EPA has concluded that the existing record is sufficient, EPA can proceed to final action at this time based on that record.

Enforcement

EPA's proposed approval of the New Jersey SIP revision indicated that there was a problem with the test method section. The regulation required that testing be performed in accordance with the American Society for Testing and Materials (ASTM) method D-323. EPA stated that the State must revise its test method section to include the EPA recognized methods contained in EPA's national volatility rule which are based on an ASTM proposed modification to D-323 known as Annex 2. On April 27, 1989, EPA received comments from the NJDEP which indicated that the State cannot amend its RVP rule through normal legislative procedures in time for this year's volatility control period. The New Jersey Department of Environmental Protection stated that it will adhere to D-323 (which is still a valid ASTM testing procedure and is being used by other NESCAUM states) for the 1989 control period and committed to amend its test methodology to cite the EPA recognized methods in 1990 and subsequent years. EPA finds that its concerns related to the test methods were addressed sufficiently by the State and that the test methods section is approvable.

Final Action

EPA is approving this revision to the New Jersey Ozone State Implementation Plan to control gasoline volatility, including any waivers New Jersey may grant under the program. EPA has also made the finding that the New Jersey SIP revision meets the requirements of section 211(c)(4)(C) of the Act for an exception to federal preemption.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of publication. This action may not be challenged later in proceedings to enforce its requirements [See section 307(b)(2)].

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Ozone, Incorporation by reference.

Note: Incorporation by reference of the State Implementation Plan for the State of New York was approved by the Director of the Federal Register on July 1, 1982.

EPA is today approving the New Jersey SIP revision pertaining to its State gasoline volatility program.

Date: June 6, 1989.

William K. Reilly,

Administrator.

For the reasons set forth in the preamble, Part 52 of Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart FF—New Jersey

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1570 is amended by adding new paragraph (c)(45) to read as follows:

§ 52.1570 Identification of Plan.

* * * * *

(c) * * *

(45) Revisions to the New Jersey State Implementation Plan (SIP) for ozone submitted on January 27, 1989 by the New Jersey State Department of Environmental Protection (NJDEP) for its

state gasoline volatility program, including any waivers that may be granted under the program by the state. In 1989, the control period will begin on June 30.

(i) *Incorporation by reference:* Subchapter 25 of Chapter 27, Title 7 of the New Jersey Administrative Code entitled "Control and Prohibition of Air Pollution by Vehicular Fuels," adopted on January 27, 1989 and effective on February 21, 1989.

(ii) *Additional material:* April 27, 1989 letter from Christopher Daggett, NJDEP, to William Muszynski, EPA Region II.

3. Section 52.1605 is amended by adding a new entry Subchapter 25 under Title 7, Chapter 27 in numerical order as follows:

§ 52.1605 EPA-approved New Jersey State regulations.

State regulation	State effective date	EPA approved date	Comments
* * * * *			
Title 7, Chapter 27	2/21/89	[FR date and citation of this document]	Effective date 6/30/89.
* * * * *			
Subchapter 25, "Control and Prohibition of Air Pollution by Vehicular Fuels".			
* * * * *			

[FR Doc. 89-14227 Filed 6-15-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[SC-012b; FRL-3602-6]

Approval and Promulgation of Implementation Plans; South Carolina; Volatile Organic Compound (VOC) Emissions

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of final rule.

SUMMARY: On April 17, 1989 (54 FR 15181), EPA disapproved without prior proposal the May 24, 1985, version of revisions made by South Carolina in its Air Pollution Control Regulations and Standards. These revisions contained deficiencies within the Volatile Organic Compound (VOC) regulations. EPA subsequently received adverse comments on the action. Accordingly, the Agency is withdrawing its direct-final disapproval. Elsewhere in today's Federal Register, EPA is proposing to disapprove the May 24, 1985, version of revisions made by South Carolina and providing an opportunity to comment on the proposal.

DATE: This action is effective on June 16, 1989.

ADDRESSES: Copies of the materials submitted by South Carolina may be examined during normal business hours at the following locations:

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Diane Altsman, EPA Region IV, Air Programs Branch, at the Atlanta address above or call 404/347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: On June 5, 1985, the South Carolina Department of Health and Environmental Control submitted to EPA for approval revisions to the volatile organic compound (VOC) provisions of the South Carolina Air Pollution Control Regulations and Standards. These revisions were adopted by the South Carolina Board of Health and Environmental Control on December 20, 1984, and were forwarded to the State Legislature for approval. The revisions became State-effective on May 24, 1985. Based on the information submitted, EPA found several of the revisions to be deficient and therefore disapproved them without prior proposal (54 FR 15181 April 17, 1989).

In the final rulemaking, EPA advised the public that the effective date of the action was deferred for 60 days (until June 16, 1989) to provide an opportunity to submit comments on it. EPA announced that if notice was received within 30 days of the publication of the final rule that someone wanted to submit adverse or critical comments, the final action would be withdrawn and a new rulemaking would be begun by proposing a 30-day comment period. EPA had earlier published a general notice explaining this special procedure (46 FR 44477, September 4, 1981).

EPA has received adverse comments on this action. Accordingly, the Agency is today withdrawing its disapproval.

Elsewhere in today's Federal Register, EPA is proposing disapproval of this plan and soliciting comments on the proposal.

EPA is withdrawing this action without providing prior notice and opportunity for comment. The Agency finds that it has good cause within the meaning of 5 U.S.C. 553(b) to proceed without notice and comment. Notice and comment would be impracticable in this case because EPA needs to withdraw its approval as quickly as possible in order to consider the comments which the public has submitted or may wish to submit. Moreover, further notice is not necessary because EPA has already informed the public that it would follow this procedure if it received a request for an opportunity to comment. For the same reasons, EPA finds that it has good cause under 5 U.S.C. 553(d) to make this withdrawal immediately effective.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution, Hydrocarbons, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401-7642.

Date: June 8, 1989.

Greer C. Tidwell,

Regional Administrator.

Therefore the addition of new § 52.2126 appearing at 54 FR 15182, April 17, 1989, which was to become effective on June 16, 1989, is withdrawn.

[FR Doc. 89-14384 Filed 6-15-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[FRL-3602-9]

Approval and Promulgation of Implementation Plan, State of Texas, Particulate Matter (PM_{10}) Group II Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This **Federal Register** notice approves a revision to the Texas State Implementation Plan (SIP) that commits the Texas Air Control Board (TACB) to conduct particulate matter ambient air monitoring, data analyses, reporting, and submittal of control strategies (if any necessary) for the areas which were identified as particulate matter (PM_{10}) Group II areas in the **Federal Register** notice of August 7, 1987 (52 FR 29383). This revision is partially in response to the requirements of the PM_{10} National Ambient Air Quality Standards that were promulgated by the EPA in the **Federal Register** notice of July 1, 1987 (52 FR 24634). This action today only approves the Texas PM_{10} Group II SIPs (committal SIPs) for the areas cited in this notice. The EPA will publish its action on the remaining PM_{10} including El Paso PM_{10} plan (Group I SIP) under separate notices at a later date.

Today's notice is published to advise the public that the EPA is approving the Texas State PM_{10} Group II SIPs. The rationale for this approval is contained in this notice.

DATE: This action will be effective on August 15, 1989. Unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before the visiting day.

SIP New Source Section, Air Programs Branch, Air, Pesticides and Toxics Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 655–7214.

Texas Air Control Board, Technical Support and Regulation Development, 6330 Highway 290 East, Austin, Texas 78723, Telephone: (512) 451–5711.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P.E.; SIP New Source Section, Air Programs Branch, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone: (214) 655–7214.

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act requires the EPA Administrator to set and periodically reexamine national ambient air quality standards. Section 108 of the Act directs the Administrator to identify widespread pollutants that endanger public health or welfare and to issue air quality criteria for them. The intent of these air quality criteria is to reflect the latest scientific information useful in indicating the kind and extent of all identifiable effects on public health or welfare that may be expected from the presence of a pollutant in the ambient air. In addition, section 109 requires the Administrator to establish "primary" standards to protect public health and "secondary" standards to protect public welfare for pollutants identified under section 108. Once the Federal standards have been set, section 110 of the Act requires that States submit State Implementation Plans (SIP), which contain control measures needed to attain the health based standards within specific statutory deadlines and to attain standards for welfare effects within a reasonable time.

Statutory Requirements

The Clean Air Act (amended August 1977) establishes a joint State and Federal program to control air pollution. Under sections 108 and 109 of the Act, the EPA is responsible for issuing air quality criteria and promulgating National Ambient Air Quality Standards (NAAQS). The States have primary responsibility for implementing the NAAQS. Under section 110 of the Act, each State must develop and submit to EPA a plan that provides for attainment and maintenance of each NAAQS as expeditiously as practicable within three years of the approved date of SIP. The State is required to adopt and submit a SIP revision to the EPA within nine months after the promulgation or revision of a primary NAAQS. The EPA must review each SIP and approve or disapprove its provisions. If the State fails to submit a plan, or the EPA finds the plan inadequate, a Federal program may be instituted in place.

In fulfilling the requirements of the Act, the EPA promulgated the particulate matter (PM_{10}) rules on July 1, 1987. The PM_{10} rules replaced the former standards for total suspended particulate matter (TSP) with a new indicator that includes particulate matters with the aerodynamic diameters less than or equal to a nominal 10 micrometers (PM_{10}) as measured by a reference method established by the EPA. The new 24-hour primary (health-based) standards limit PM_{10} to 150 micrograms per cubic meter of air. In addition to the 24-hour standard, a new annual standard is set at 50 micrograms per cubic meter.

PM_{10} SIP Requirements

The EPA implemented the PM_{10} NAAQS under section 110 of the Act. The States and EPA began developing a monitoring network in 1983 to determine the concentrations of PM_{10} at various locations. Initially, the network targeted areas with high concentrations of total suspended particulates (TSP). Since the quantity of good quality ambient PM_{10} data was limited, yet the States had a significant amount of TSP data, EPA developed a procedure for determining the probability that an area would violate the PM_{10} NAAQS. The EPA has placed all the counties in the nation into three groups based on their probability of violating the PM_{10} NAAQS. Under this scheme, the area of each state was classified as Group I, II, or III. The Group I areas are those areas with a high probability of not attaining the standards, Group II are those areas where existing air quality data are not sufficient to determine if they are attaining the standards, and Group III areas are those with a high probability of attaining the NAAQS without revisions to the existing control strategies. Under this scheme, the entire State of Texas was classified as Group III area except for Dallas, Harris, Lubbock, and Nueces Counties which were classified as Group II areas and El Paso County was identified as a Group I area. The list of PM_{10} Group I and Group II areas was published in the **Federal Register** notice of August 7, 1987 (52 FR 29383).

The States are required to submit SIPs for all areas in Group II within nine months of NAAQS promulgation, but these SIPs need not contain full control strategies and demonstrations of attainment and maintenance. Instead, States may submit "committal" SIPs that supplement the existing SIPs with enforceable commitments to: (a) Gather ambient PM_{10} data, at least to an extent consistent with minimum EPA requirements and guidance; (b) Analyze and verify the ambient PM_{10} data and report 24-hour PM_{10} NAAQS exceedances to the Regional Office within 45 days of each exceedance; (c) When an appropriate number of verifiable 24-hour NAAQS exceedances becomes available or when an annual arithmetic mean above the level of the annual PM_{10} NAAQS becomes available, acknowledge that a nonattainment problem exists and immediately notify the Regional Office; (d) Within 30 days of the notification referred to in (c) above, or within 37 months of promulgation, whichever comes first, determine whether the measures in the existing SIP will assure timely attainment and maintenance of the primary PM_{10} standards, and immediately notify the Regional Office;

and (e) Within 6 months of the notification referred to in (d) above, adopt and submit to EPA a PM_{10} control strategy that assures attainment as expeditiously as practicable but no later than three years from approval of the committal SIP.

State Submission

The EPA has identified four Group II areas in the State of Texas; namely, Dallas, Harris, Lubbock, and Nueces counties. On July 18, 1988, the Governor of Texas submitted a comprehensive SIP revision for meeting the requirements of the PM_{10} program (52 FR 24634) including the four Group II areas. Before the Governor's submission, the TACB adopted the PM_{10} Group II plan revision on May 13, 1988. The PM_{10} Group II SIP revision contained (1) area description including boundaries of the Group II areas within each county, (2) monitoring and quality assurance plan, (3) commitments on the procedures and milestones for meeting the Federal mandate, and (4) a letter from the Governor that commits the TACB for carrying out the requirements of PM_{10} Group II SIPs. The Governor's letter fully commits the State to comply with the PM_{10} Group II requirements, and the content of this letter is stated below:

* * * In the July 1, 1987 issue of the **Federal Register**, the U.S. Environmental Protection Agency announced the requirement that each state submit a committal SIP for PM_{10} Group II areas instead of full control strategies. States were also required to submit demonstrations of attainment and maintenance of the PM_{10} National Ambient Air Quality Standards. The TACB is committed to carrying out the activities contained in the enclosed proposed SIP to satisfy those requirements * * *

The specific commitments for monitoring, data analysis, and reporting of the PM_{10} Group II areas are given in the SIP and quoted as follow:

* * * with regard to the four PM_{10} Group II areas in Texas discussed above, the TACB makes these commitments.

(1) The TACB will gather ambient PM_{10} data, at least to an extent consistent with minimum EPA requirements and guidance specified in 40 CFR Parts 50, 51, 52, 53, 58, *PM_{10} SIP Development Guidance*, and other applicable EPA guidance documents.

(2) The state will analyze and verify the ambient PM_{10} and report 24-hour PM_{10} NAAQS exceedances to the Region 6 Office within 45 days of each exceedance.

(3) When an appropriate number of verifiable 24-hour NAAQS exceedances becomes available (see § 2.0 of the *PM_{10} SIP Development Guidance*) or when an annual arithmetic mean (AAM) above the level of the annual PM_{10} NAAQS becomes available, the TACB will acknowledge that a nonattainment problem exists and immediately notify the Region 6 Office.

(4) Within 30 days of the notification referred to in (3) above, or within 37 months of promulgation, whichever comes first, the TACB will determine whether the measures in the existing SIP assure timely attainment and maintenance of the primary PM_{10} standards, and will notify the Region 6 Office.

(5) In addressing the requirements in (4) above, the TACB shall consider the following factors in determining the adequacy of the existing SIPs:

(a) Air quality data—Time is allotted for up to 3 years of PM_{10} data to be collected if an NAAQS is not violated sooner. At the end of that time, the available PM_{10} data shall be examined to determine if attainment can be demonstrated in accordance with Appendix K of 40 CFR Part 50 or the *Guideline on Exceptions to Data Requirements for Determining Attainment of Particulate Matter Standards* in the absence of adequate PM_{10} data.

(b) The present control strategy—The existing control strategy shall be evaluated to determine if it is fully implemented; if it is adequately enforced; if start-up, shutdown, and malfunction regulations are adequate to prevent circumvention of the emission limitations, and it can adequately attain and maintain the PM_{10} NAAQS if the above conditions are met. The evaluation shall include the use of dispersion and receptor modeling techniques where appropriate.

(c) Emissions data—The emission inventories shall be evaluated to determine if emissions can increase significantly because actual emissions are far below allowable emissions for the area, if sources with operating permits are not operating or are operating at reduced capacity and if "banked" emissions could impact future air quality.

(6) Within 6 months of the notification referred to in (4) above, the TACB will adopt and submit to EPA a PM_{10} control strategy that assures attainment as expeditiously as practicable but no later than 3 years from approval of the committal SIP. As provided in section 110(e) of the FCAA, the TACB may request an additional 2 years to reach attainment for any Group II area where monitoring data has demonstrated a nonattainment situation.

Additionally, the TACB will collect and submit to EPA a PM_{10} emissions inventory from all Group II areas by August 31, 1990. This will provide both actual and allowable emissions in each area. A schedule of PM_{10} emissions inventory submittal is provided in Table 3. The existing control strategies for particulate matter in TACB Regulation I will be retained until a need for more stringent controls is indicated. Applications for new or modified sources of PM_{10} will be reviewed in accordance with PSD rules.

All the above referenced commitments will assure the maintenance of PM_{10} in the designated Group II areas * * *

The Governor's submission of July 18, 1988, also included the revisions required under the PM_{10} Group III, monitoring network, other regulatory changes, and a request for redesignation of the total suspended particulate matter nonattainment areas to the unclassifiable status; however, today's action only approves the PM_{10} Group II SIPs (committal SIPs) for the areas cited earlier in this notice. The EPA will publish its action on the remaining PM_{10} SIPs including El Paso Group I SIP under separate notices at a later date.

Final Action

The EPA has reviewed the State's submittal and determined that the State commitments and procedures are adequate for monitoring, data analysis, reporting, and subsequently submitting a SIP revision (if any required) for the PM_{10} Group II areas. The TACB has defined the Group II areas within the counties cited in this notice in accordance with the EPA PM_{10} SIP Development Guideline (June 1987), EPA 450/2-86-001. The area boundaries as defined in the SIP satisfy the requirements of the PM_{10} Group II committal SIPs. In addition, the EPA finds that the State commitments are in conformance with the specific requirements of the PM_{10} Group II areas of the July 1, 1987, **Federal Register** notice (52 FR 24634). However, the EPA wants to clarify paragraph number 6 of the State commitments, as quoted in this notice, that refers to the possibility of State requesting extension under section 110(e) of the Clean Air Act beyond the maximum three year period allowed in section 110(a)(2)(A) of the Act. Section 110(e) of the Act allows the Administrator of EPA to grant a two year extension to the State in certain cases if the requirements of this section of the Act are satisfied by the State. The Administrator can not grant any extension solely by a request unless the conditions specified under section 110(e) are completely and clearly supported by actual data, documentation, and other evidence that the area in question can not attain the PM_{10} NAAQS within the three year period. Therefore, the EPA, with clarification stated above, is approving the Texas PM_{10} Group II SIPs for the defined areas of Dallas, Harris, Lubbock, and Nueces counties.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of publication unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new

rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on August 15, 1989.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 15, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Incorporation by reference of the Texas State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

This rulemaking is issued under the authority of section 110 of the Clean Air Act, 42 U.S.C. 7410.

List of Subjects in 40 CFR Part 52

Air pollution control and Particulate matter.

Date: June 5, 1989.

Joseph D. Winkle,

Acting Regional Administrator.

Title 40, Part 52 of the Code of Federal Regulations is being amended as follows:

PART 52—[AMENDED]

Subpart SS—Texas

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. The table in § 52.2279 is revised to read as follows:

§ 52.2279 Attainment dates for national standards.

* * * * *

Air quality control region	Pollutant								
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone	Lead	PM_{10}
	Primary	Secondary	Primary	Secondary					
Abilene-Wichita Falls Intrastate (AQCR 210).	b	b	b	b	a	a	a	e	h
Amarillo-Lubbock Intrastate (AQCR 211):									
a. Lubbock County	b	b	b	b	a	a	a	e	h
b. Portion of Lubbock County	.....	.....	.....	.....	.....	.....	.....	.....	i
c. Remainder of AQCR	b	b	b	b	a	a	a	e	h
Austin-Waco Intrastate (AQCR 212)	b	b	a	a	a	a	5/31/77	e	h
Brownsville-Laredo Intrastate (AQCR 213):									
a. Cameron County	[1]c	[1]d	a	a	a	a	a	e	h
b. Remainder of AQCR	b	b	a	a	a	a	a	e	h
Corpus Christi-Victoria Intrastate (AQCR 214):									
a. Nueces County	[1]c	[1]d	b	b	a	a	c	e	h
b. Portion of Nueces County	.....	.....	.....	.....	.....	.....	.....	.....	i
c. Victoria County	b	b	b	b	a	a	c	e	h
d. Remainder of AQCR	b	b	b	b	a	a	5/31/77	e	h
Midland-Odessa-San Angelo Intrastate (AQCR 218):									
a. Ector County	b	b	b	b	a	a	c	e	h
b. Remainder of AQCR	b	b	b	b	a	a	a	e	h
Metropolitan Houston-Galveston Intrastate (AQCR 216):									
a. Brazoria County	b	b	b	b	a	a	c	e	h
b. Galveston County	b	b	b	b	a	a	c	e	h
c. Harris County	[1]c	[1]d	b	b	a	a	d	e	h
d. Portion of Harris County	.....	.....	.....	.....	.....	.....	.....	.....	i
e. Remainder of AQCR	b	b	b	b	a	a	5/31/77	e	h
Metropolitan Dallas/Fort Worth Intrastate (AQCR 215):									
a. Dallas County	[1]c	[1]d	a	a	a	a	c	6/30/85	h
b. Portion of Dallas County	.....	.....	.....	.....	.....	.....	.....	.....	i
c. Tarrant County	[1]c	[1]d	a	a	a	a	c	e	h
d. Remainder of AQCR	b	b	a	a	a	a	d	e	h
Metropolitan San Antonio Intrastate (AQCR 217).	b	b	a	a	a	a	c	e	h
Southern Louisiana-Southeast Texas Interstate (AQCR 106).	b	b	b	b	a	a	c	e	h
El Paso-Las Cruces-Alamogordo Interstate (AQCR 153):									
a. El Paso County	[1]c	[1]d	b	b	a	[1]c	c	f	h
b. In the City of El Paso, for an area immediately around ASARCO smelter, 0.5 km to the West and South, 2.0 km to the North and East, and 1.5 km to the Southeast from the smelter's copper stack.	.....	.....	.....	.....	.....	.....	.....	f	
c. Portion of El Paso County	.....	.....	.....	.....	.....	.....	.....	.....	g
d. Remainder of AQCR	b	b	b	b	a	b	5/31/77	e	h

Air quality control region	Pollutant								
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone	Lead	PM_{10}
	Primary	Secondary	Primary	Secondary					
Shreveport-Texarkana-Tyler Interstate (AQCR 022):									
a. Gregg County	b	b	a	a	a	a	c	e	h
b. Remainder of AQCR	b	b	a	a	a	a	a	e	h

Note 1: Dates or footnotes which are italicized are prescribed by the Administrator because the plan does not provide a specific date.
Note 2: Sources subject to plan requirements and attainment dates established under section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.2279 (1978).
[1] Portions of the county or counties.
a. Air quality levels presently below secondary standards.
b. July 1975.
c. December 31, 1982.
d. December 31, 1987.
e. November 5, 1982.
f. August 14, 1987.
g. No action taken.
h. Air quality levels presently below primary standards.
i. Three years from effective date of plan approval.

3. A new § 52.2306 is added to read as follows:

§ 52.2306 Particulate Matter (PM_{10}) Group II SIP Commitments.

On July 18, 1988, the Governor of Texas submitted a revision to the State Implementation Plan (SIP) that contained commitments for implementing all of the required activities including monitoring, reporting, emission inventory, and other tasks that may be necessary to satisfy the requirements of the PM_{10} Group II SIPs. The Texas Air Control Board adopted these revisions on May 13, 1988. The State of Texas has committed to comply with the PM_{10} Group II SIP requirements, as articulated in the **Federal Register** notice of July 1, 1987 (52 FR 24670), for the defined areas of Dallas, Harris, Lubbock, and Nueces counties as provided in the Texas PM_{10} Group II SIPs. In addition to the SIP, a letter from the Governor of Texas, dated July 18, 1988, stated that:

* * * In the July 1, 1987 issue of the **Federal Register**, the U.S. Environmental Protection Agency announced the requirement that each state submit a committal SIP for PM_{10} Group II areas instead of full control strategies. States were also required to submit demonstrations of attainment and maintenance of the PM_{10} National Ambient Air Quality Standards. The TACB is committed to carrying out the activities contained in the enclosed proposed SIP to satisfy those requirements * * *.

[FR Doc. 89–14386 Filed 6–15–89; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 90515–9115]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA announces the closure of two commercial salmon fisheries in the exclusive economic zone (EEZ) from the Queets River, Washington, to Cape Falcon, Oregon, and from Humbug Mountain, Oregon, to Punta Gorda, California, at midnight, June 8, 1989, to ensure that the chinook salmon quotas for each subarea are not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined that the commercial fishery quota of 39,500 chinook salmon for the subarea from the Queets River, Washington, to Cape Falcon, Oregon, and the commercial fishery quota of 17,700 chinook for the subarea from Humbug Mountain, Oregon, to Punta Gorda, California, will be reached by June 8, 1989. The closure is necessary to conform to the preseason announcement of 1989 management measures. This action is intended to ensure conservation of chinook salmon.

EFFECTIVE DATE: Closure of the EEZ from the Queets River, Washington, to Cape Falcon, Oregon, and from Humbug Mountain, Oregon, to Punta Gorda, California, to commercial salmon fishing was effective at 2400 hours local time, June 8, 1989. Actual notice to affected fishermen was given prior to that time through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 661.20, 661.21, and 661.23 (as amended May 1, 1989).

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, WA 98115–0070; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, CA 90731–7415. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Rodney R. McInnis at 213–514–6199.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by notice issued under § 661.23, close the commercial or recreational fishery, or both, for all

salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Regulations implementing Amendment 9 to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California were effective May 1, 1989, and modified notice procedures for inseason regulatory actions. These regulations amended 50 CFR 661.20, 661.21, and 661.23 to provide for immediate and actual notice to fishermen of such inseason actions through telephone hotlines and U.S. Coast Guard broadcasts and to establish the effective dates and times for these actions through the notices issued by telephone hotlines and U.S. Coast Guard broadcasts.

Management measures for 1989 were effective on May 1, 1989 (54 FR 19798, May 8, 1989). The 1989 commercial fishery for all salmon except coho in the subarea from the Queets River, Washington, to Cape Falcon, Oregon, commenced on May 1, 1989, and was scheduled to continue through the earlier of June 15, 1989 or the attainment of a subarea quota of 39,500 chinook salmon. The 1989 commercial fishery for all salmon species in the subarea from Humbug Mountain, Oregon, to Punta Gorda, California, commenced on June 5, 1989, and was scheduled to continue through the earlier of June 16, 1989 or the attainment of a subarea quota of 17,700 chinook salmon, an overall catch quota of 474,000 coho salmon south of Cape Falcon, Oregon, a catch ceiling of 349,000 coho salmon south of Cascade Head, Oregon, or a catch ceiling of 89,000 coho salmon south of Orford Reef Red Buoy, Oregon. Based on the best available information, the commercial fishery catch in the subareas from the Queets River, Washington, to Cape Falcon, Oregon, and from Humbug Mountain, Oregon, to Punta Gorda, California, are projected to reach their respective chinook salmon quotas of 39,500 and 17,700 fish by midnight, June 8, 1989. Therefore, the fishery in these two subareas must be closed to further fishing.

In accordance with the revised inseason notice procedures of 50 CFR 661.20, 661.21, and 661.23, actual notice to fishermen was given prior to 2400 hours local time, June 8, 1989, by telephone hotline number (206) 526-6667 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 KHz. NOAA issues this notice of the closure of the commercial salmon fisheries in the EEZ from the Queets River, Washington, to Cape Falcon, Oregon, and from Humbug Mountain, Oregon, to Punta Gorda, California, which was effective midnight, June 8, 1989. This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in other areas.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, the Washington Department of Fisheries, the Oregon Department of Fish and Wildlife, and the California Department of Fish and Game regarding a closure of the commercial fisheries between the Queets River, Washington, and Cape Falcon, Oregon, and between Humbug Mountain, Oregon, and Punta Gorda, California. The States of Washington, Oregon, and California will manage the commercial fisheries in State waters adjacent to these areas of the EEZ in accordance with this federal action.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted for 15 days after filing with the Office of the Federal Register, through June 28, 1989.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: June 12, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management.

[FR Doc. 89-14329 Filed 6-13-89; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 115
Friday, June 16, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1942

Industrial Development Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend the Agency's policies and procedures governing the administration of Industrial Development Grants. This action is necessary to clarify the requirements for the financing of small and emerging private business enterprises through the Industrial Development Grant Program. The net effect of this action will result in increased enterprise development and job creation in distressed rural communities.

EFFECTIVE DATE: July 17, 1989.

FOR FURTHER INFORMATION CONTACT: Bonnie S. Justice, Senior Loan Specialist, Community Facilities Division, Farmers Home Administration, U.S. Department of Agriculture, Room 6320, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250; Telephone: (202) 382–1490.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be nonmajor since the annual effect on the economy is less than $100 million and there will be no increase in costs or prices for consumers, individual industries, organizations, governmental agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity innovation or on the ability of United States-based enterprises to compete with foreign-basd enterprises in domestic or export markets.

The reporting and recordkeeping requirements contained in this proposed regulation have been submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980.

Environmental Impact Statement

This document has been reviewed in accordance with FmHA Instruction 1940–G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

The Administrator, Farmers Home Administration, has determined this action will not have a significant economic impact on a substantial number of small entities, because the action, will not affect a significant number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

Program Affected

This program, Industrial Development Grants, is listed in the Catalog of Federal Domestic Assistance under Number 10.424. The FmHA program and projects which are affected by this instruction are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1940–J.

List of Subjects in 7 CFR Part 1942

Business and industry; Grant programs—Housing and community development; Industrial park; Rural areas.

Accordingly, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1942—ASSOCIATIONS

1. The authority citation for Part 1942 is revised to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart G—Industrial Development Grants

2. Section 1942.305 is amended by revising paragraph (b)(2) and adding paragraph (b)(3)(iv)(C) to read as follows:

§ 1942.305 Eligibility and priority.

* * * * *

(b) * * *

(2) *State Office review.* All applications will be reviewed and scored for funding priority. Eligible applicants that cannot be funded should be advised by the State Director that funds are not available, and requested to advise whether they wish to have their application maintained in an active file for future consideration.

(3) * * *

(iv) * * *

(C) For grants to establish a revolving fund points will be distributed if the: Grant request contains proposed third party loan/grant recipients—25 points.

* * * * *

3. Section 1942.306 is amended by adding new paragraph (a)(7) to read as follows:

§ 1942.306 Purposes of grants.

* * * * *

(a) * * *

(7) Providing financial assistance to third parties through a loan or a pass through grant.

* * * * *

4. Section 1942.307 is amended by revising paragraph (a)(1) to read as follows:

§ 1942.307 Limitations on use of grant funds.

(a) Funds will not be used:

(1) To produce agriculture products through growing, cultivation and harvesting either directly or through horizontally integrated livestock operations except for commercial nurseries, timber operations or limited agricultural production related to technical assistance projects.

* * * * *

5. Section 1942.310 is amended by revising paragraph (d) to read as follows:

§ 1942.310 Other considerations.

* * * * *

(d) *Management assistance.* Grant recipients will be supervised as necessary to assure that projects are completed in accordance with approved plans and specifications and that funds are expended for approved purposes. Grants made under this Subpart will be administered under and are subject to 7 CFR 3015, 7 CFR 3016, and 7 CFR 3017, as appropriate, and established FmHA guidelines.

* * * * *

6. Section 1942.311 is amended by removing paragraph (a)(2), and redesignating paragraph (a)(3) as paragraph (a)(2) and by revising paragraph (a)(1) to read as follows:

§ 1942.311 Application processing.

(a) Preapplications and applications.

(1) The application review and approval procedures outlined in § 1942.2 of Subpart A of Part 1942 of this Chapter will be followed as appropriate. The State Director should assist the applicant in application assembly and processing. The applicant shall use SF 424, "Application for Federal Assistance," (for construction or nonconstruction programs as applicable) when requesting financial assistance under this program.

* * * * *

7. Section 1942.313 is added to read as follows:

§ 1942.313 Plan to provide financial assistance to third parties.

(a) For applications involving establishment of a revolving fund to provide financial assistance to third parties the applicant shall develop a plan which outlines the purpose and administration of the fund. The plan will include:

(1) Planned projects to be financed.

(2) Sources of all non ID funds.

(3) Amount of technical assistance (if any).

(4) Purpose of the loans/grants.

(5) Number of jobs to be created/saved with each project.

(6) Project priority and length of time involved in completion of each project.

(7) Other information required by the State Office.

(b) Each third party project receiving funds will be reviewed for eligibility. When the applicant does not have a list of projects to be completed the applicant should advise the FmHA at the time a preapplication is submitted.

8. Section 1942.314 is revised to read as follows:

§ 1942.314 Grants to provide financial assistance to third parties and technical assistance programs.

For applications involving a purpose other than a construction project to be owned by the applicant, the applicant shall develop a Scope of Work. The Scope of Work will be used to measure the performance of the grantee. As a minimum the Scope of Work should contain the following:

(a) The specific purposes for which grant funds will be utilized, i.e., Technical Assistance, Revolving Fund, etc.

(b) Timeframes or dates by which action surrounding the use of funds will be accomplished.

(c) Who will be carrying out the purpose for which the grant is made (key personnel should be identified).

(d) How the grant purposes will be accomplished.

(e) Documentation regarding the availability and amount of other funds to be used in conjunction with the funds from the ID program.

(f) For grants involving a revolving fund the scope of work should include those items listed in a through e above as well as the following:

(1) Information which will establish/identify the need for the revolving loan fund.

(2) Financial statements which will demonstrate the financial ability of the applicant to administer the revolving loan fund. As a minimum the financial statements will include: (i) Balance sheet; (ii) Income statement.

(3) Detail on the applicants experience in operating a revolving loan fund.

9. Section 1942.348 is added to read as follows:

§ 1942.348 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute, an applicable law or decision of the Comptroller General, if the Administrator determines that application of the requirement or provision would adversely affect the Government's interest and show how the adverse impact will be eliminated or minimized if the exception is made.

Dated: May 26, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89-14309 Filed 6-15-89; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

New Mexico Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSMRE is announcing the receipt of a proposed amendment to the New Mexico permanent regulatory program (hereinafter, the New Mexico program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to inspection and enforcement, experimental practices, the use of explosives, prime farmland, backfilling and grading, stream buffer zones and fish and wildlife, excess spoil, revegetation, coal exploration, areas unsuitable for coal mining, hydrology, coal mine waste, permitting, operation plans, coal processing plants, and topsoil. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards.

This notice sets forth the times and locations that the New Mexico program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m., m.d.t. July 17, 1989. If requested, a public hearing on the proposed amendment will be held on July 11, 1989. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t. on July 3, 1989.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. Robert H. Hagen at the address listed below.

Copies of the New Mexico program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of

the proposed amendment by contacting OSMRE's Albuquerque Field Office.

Mr. Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, SW., Suite 310, Albuquerque, New Mexico 87102, Telephone: (505) 766–1486.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5131, 1100 "L" Street, NW., Washington, DC 20240, Telephone: (202) 343–5492.

New Mexico Energy & Minerals Department, Mining & Minerals Division, 525 Camino de los Marquez, Santa Fe, NM 87503, Telephone: (505) 827–5970.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Hagen, Director, Albuquerque Field Office, at the address or telephone number listed in "**ADDRESSES.**"

SUPPLEMENTARY INFORMATION

I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. General background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program, can be found in the December 31, 1980, **Federal Register** (45 FR 86489). Subsequent actions concerning New Mexico's program and program amendments can be found at 30 CFR 931.12, 931.13, 931.15, 931.16, and 931.30.

II. Proposed Amendment

By letter dated May 18, 1989 (Administrative Record No. NM4–97), New Mexico submitted a proposed amendment to its program pursuant to SMCRA. New Mexico submitted the proposed amendment at its own initiative, and also in response to an August 14, 1986, letter that OSMRE sent in accordance with 30 CFR 732.17(c). New Mexico proposes to amend the following sections to Coal Surface Mining Commission (CSMC) Rule 80–1:

Inspection and Enforcement

New Mexico proposes revisions to Sections 31–17 and 31–18. In addition, two policy statements were submitted concerning inspection and enforcement.

Experimental Practices

New Mexico proposes revisions to Sections 10–13, 13–11, and 13–12.

Use of Explosives

New Mexico proposes revisions to Sections 9–13, 20–11, 20–61, 20–62, 20–63, 20–64, 20–65, 20–66, 20–67, and 20–68.

Prime Farmland

New Mexico proposes revisions to Sections 8–27, 10–17, 24–11, 24–12, and 24–15.

Backfilling and Grading

New Mexico proposes revisions to Sections 20–102 and 26–12.

Stream Buffer Zones and Fish and Wildlife

New Mexico proposes revisions to Sections 8–20, 9–16, 20–57, and 20–97.

Excess Spoil

New Mexico proposes revisions to Sections 1–5, 20–71, and 20–102.

Revegetation

New Mexico proposes revisions to Sections 20–111, 20–112, and 20–116.

Coal Exploration

New Mexico proposes revisions to Sections 6–11, 6–12, and 6–13. New Mexico also proposes to add a new Section 6–10.

Areas Unsuitable for Coal Mining

New Mexico proposes revisions to Sections 2–11, 2–12, 4–15, and 8–24.

Hydrology

New Mexico proposes revisions to Sections 1–5, 8–15, 8–16, 9–21, 13–12, 20–41, 20–43, 20–43, 20–44, and 20–52.

Coal Mine Waste

New Mexico proposes revisions to Sections 1–5, 20–82, and 20–91.

Permitting

New Mexico proposes revisions to Sections 7–14, 11–11, 11–15, 11–27, and 13–18.

Operation Plans

New Mexico proposes revisions to Section 9–14.

Coal Processing Plants

New Mexico proposes revisions to Section 1–5.

Topsoil

New Mexico proposes revisions to Section 8–14.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSMRE is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the New Mexico program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4:00 p.m., m.d.t. on July 3, 1989. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT**" All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "**ADDRESSES**" A written summary of each meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 931

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Date: June 7, 1989.

Allen D. Klein,

Acting Assistant Director, Western Field Operations.

[FR Doc. 89-14350 Filed 6-15-89; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 931

New Mexico Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule; Public Comment Period and Opportunity for Public Hearing on Proposed Amendment.

SUMMARY: OSMRE is announcing the receipt of a proposed amendment to the New Mexico permanent regulatory program (hereinafter, the New Mexico program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to the definition of affected area, previously mined areas, fish and wildlife, performance bonds, and civil penalties. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards.

This notice sets forth the times and locations that the New Mexico program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m., m.d.t. on or before July 17, 1989. If requested, a public hearing on the proposed amendment will be held on July 11, 1989. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t. on July 3, 1989.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. Robert H. Hagen at the address listed below.

Copies of the New Mexico program, the proposed amendment, and all written comments received in response to this notice, will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSMRE's Albuquerque Field Office.

Mr. Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, SW., Suite 310, Albuquerque, New Mexico 87102, Telephone: (505) 766-1486.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5131, 1100 "L" Street, NW., Washington, DC 20240, Telephone: (202) 343-5492.

New Mexico Energy & Minerals Department, Mining & Minerals Division, 525 Camino de los Marquez, Santa Fe, NM 87503, Telephone: (505) 827-5970.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Hagen, Director, Albuquerque Field Office, at the address or telephone number listed in **"ADDRESSES."**

SUPPLEMENTARY INFORMATION

I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. General background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program can be found in the December 31, 1980, **Federal Register** (45 FR 86489). Subsequent actions concerning New Mexico's program and program amendments can be found at 30 CFR 931.12, 931.13, 931.15, 931.16, and 931.30.

II. Proposed Amendment

By letter dated May 25, 1989 (Administrative Record No. NM499), New Mexico submitted a proposed amendment to its program pursuant to SMCRA. New Mexico submitted the proposed amendment in response to a November 3, 1988, letter that OSMRE sent in accordance with 30 CFR 732.17(c). New Mexico proposes to amend Coal Surface Mining Commission (CSMC) Rule 80-1 at the following sections:

Affected Area. New Mexico has submitted a policy statement concerning the definition of affected area.

Previously Mined Area. New Mexico proposes revisions to Sections 1-5 and 11-19.

Fish and Wildlife. New Mexico proposes revisions to Sections 8-20, 9-16, and 20-97. It also submitted a permitting procedures policy statement for fish and wildlife consultation.

Performance Bonds. New Mexico proposes revisions to Sections 1-5, 14-23, 14-40.

Civil Penalties. New Mexico proposes to add Sections 31-21, 31-22, 31-23, and 31-24.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSMRE is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the New Mexico program.

Written Comments. Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES,"** or at locations other than the Albuquerque Field Office, will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing. Persons wishing to testify at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by 4:00 p.m., m.d.t. on July 3, 1989. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting. If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under

"ADDRESSES." A written summary of each meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 931

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Allen D. Klein,

Acting Assistant Director, Western Field Operations.

Date: June 7, 1989.

[FR Doc. 89-14351 Filed 6-15-89; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC-012b; FRL-3602]

Approval and Promulgation of Implementation Plans; South Carolina; Volatile Organic Compound (VOC) Emissions

AGENCY: Environmental Protection Agency.

ACTION: Proposal rule.

SUMMARY: EPA today proposes to disapprove the May 24, 1985, version of revisions made by South Carolina in its Air Pollution Control Regulations and Standards and submitted to EPA on June 5, 1985. These revisions contained deficiencies within the State's Volatile Organic Compound (VOC) regulations. EPA is proposing to disapprove the following regulations that have been identified as being deficient: Regulations 62.1, Section I, 39., Regulation 62.5, Standard No. 5, Section I, Part A.1., A.9, A.22, A.38, A.39, A.51, A.75., Section II, Part C.1., Section I, Part A.75., Section II, Parts A through H and Parts N through T., Section I, Part F., Section I, Part E. The deficiencies identified within each regulation proposed for disapproval are discussed in detail in the Supplementary Information section of this notice. Today's proposed disapproval action provides the basis for correcting the deficiencies identified within South Carolina's State Implementation Plan (SIP). The public is invited to submit comments on this proposal.

DATE: To be considered, comments must be received on or before July 17, 1989.

ADDRESS: Copies of the materials submitted by South Carolina may be examined during normal business hours at the following locations.

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street NE, Atlanta, Georgia 30365

South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201

Comments may be submitted to the Atlanta, Georgia address

FOR FURTHER INFORMATION CONTACT: Diane Altsman, EPA Region, IV, Air Programs Branch, at the Atlanta address above or call 404/347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: On June 5, 1985, the South Carolina Department of Health and Environmental Control Submitted to EPA for approval revisions to the volatile organic compound (VOC) provisions of the South Carolina Air Pollution Control Regulations and Standards. These revisions were adopted by the South Carolina Board of Health and Environmental Control on December 20, 1984, and were forwarded to the State Legislature for approval. The revisions became State-effective on May 24, 1985. Based on the information submitted, EPA attempted to disapprove them without prior proposal (54 FR 72 April 17, 1989).

In the direct-final disapproval, EPA advised the public that the effective date of the action was deferred for 60 days (until June 16, 1989) to provide an opportunity to submit comments on it. EPA announced that if notice was received within 30 days of the publication of the final rule that someone wanted to submit adverse or critical comments, the final action would be withdrawn and a new rulemaking would be begun by proposing a 30-day comment period. EPA had earlier published a general notice explaining this special procedure (46 FR 44477, September 4, 1981).

EPA has received adverse comments on this plan. Accordingly, EPA is taking final action elsewhere in today's **Federal Register** to withdraw the April 17, 1989 direct-final disapproval and is in this notice proposing the disapproval for public comment. This proposed disapproval is based on the following considerations:

On May 3, 1988, EPA released the latest data on the degree to which areas throughout the nation have attained the NAAQ. On May 26, 1988, the Honorable Carroll A. Campbell was notified that the South Carolina SIP is substantially inadequate to achieve the ozone NAAQS, pursuant to section 110(a)(2)(H) of the Clean Air Act, 42 U.S.C. 7410(a)(2)(H). In this letter, EPA requested that South Carolina respond to the "SIP call" in two phases—the first phase, within 60 days upon receipt of EPA's letter to the States agency (South Carolina Department of Health and Environmental Control) which outlined in detail the SIP call response, and the second phase following the issuance of the final Ozone/CO policy. The first phase requires that the State initiate certain fundamental activities necessary to continue to make progress in attaining the ozone or CO NAAQS. The required activities include the correction of identified discrepancies between EPA's existing policy and the State's SIP or pending SIP submittal.

On September 9, 1988, EPA requested that South Carolina correct the identified deviations within their SIP. On October 12, 1988, South Carolina notified EPA that regulatory revisions within their SIP must be done either under a State inititative or the need to meet federal requirements. In order for the regulatory revisions to meet the test of being federal requirements, South Carolina must be able to cite the specific **Federal Register** notification of a deficiency. South Carolina additionally stated in their October 12, 1988, letter to EPA that the State-initiated revisions involve a more lengthy process, including ratification by the South Carolina General Assembly.

In order to facilitate correction of all EPA-identified deviations within the South Carolina VOC regulations, EPA is today proposing disapproval of the following regulations that have been identified as being deficient:

1. Regulation 62.1, Section I, 39.—A vapor pressure of 0.1 mm Hg should not be used to define VOC. Such a definition would exempt compounds of low volatility which under certain processes, would volatilize and therefore participate in photochemical reactions.

2. Regulation 62.5, Standard No. 5, Section I, Part A.1, A.9, A.22, A.38, A.39, A.51, A.75.—These various coating definitions need to specifically include "functional coatings" as well as protective or decorative films.

3. Regulation 62.5, Standard No. 5, Section II, Part C.1.—This regulation for the surface coating of paper, vinyl and fabric does not specifically apply to saturation processes and must therefore be revised to include them.

4. Regulation 62.5, Standard No. 5, Section I, Part A.75.—The vinyl coating definition must be revised to make clear that organisol and plastisol coatings cannot be used to bubble emissions from vinyl printing and topcoating.

5. Regulation 62.5, Standard No. 5, Section II, Part A, B, C, D, E, F, G, H, N, O, P, Q, R, S, T—In the provision for specific sources several concerns have been identified. They are as follows:

(i) The regulations within Section II, Parts A through H and Parts N through T

need to be revised to clearly state compliance period (e.g., hourly, daily) and averaging method (arithmetic or weighted).

(ii) Capture systems are required as a method of control technology for the following surface coating regulations: Section II—Provisions for Specific Sources Part A.2.e., B.2.e., C.2.e., D.2.e., E.2.e., Part F.3.e., G.3.e., H.3.e.

(iii) Regulations which require capture efficiency systems must specify test methods.

6. Regulation 62.5, Standard No. 5, Section I, Part F, Recordkeeping, Reporting, Monitoring—The recordkeeping requirement provisions as stated in the May 25, 1988, OAQPS document entitled, "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," should be included within this regulation.

7. Regulation 62.5, Standard No. 5, Section I, Part E, Volatile Organic Compound Compliance Testing—It is not clear in the VOC compliance testing requirement that the most recent test methods must be used. The regulation must be revised to state this.

The public is invited to submit written comments on this proposal; EPA will consider all comments received within 30 days of this date before taking final action on the disapproval of revisions submitted by South Carolina.

Under 5 U.S.C. 605(b), I certify that this disapproval will not have a significant economic impact on a substantial number of small entities because its purpose is to provide the State the basis for correcting its SIP.

The Office of Management and Budget has waived review of this regulation normally required under section 3 of Executive Order 12291.

List of Subjects In 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone.

Authority: U.S.C. 7401–7642.

Dated: June 8, 1989.

Greer C. Tidwell,

Regional Administrator.

[FR Doc. 89–14385 Filed 6–15–89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Bluefin Tuna Fishery; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings and request for comments.

SUMMARY: NMFS will hold a series of public hearings and provide a comment period to solicit public input into the proposed changes to the regulations governing the Atlantic bluefin tuna fishery. The two proposed changes are intended (1) to provide for the maximum opportunity to utilize the resource and (2) to preserve the traditional methods of fishing. Individuals and organizations may comment in writing to NMFS if they are unable to attend the hearings.

DATES: See **SUPPLEMENTARY INFORMATION** for dates, times, and locations of the hearings.

ADDRESS: Comments should be addressed to Richard Roe, Regional Director, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Atlantic Bluefin Tuna Regulations."

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, 508–281–9324.

SUPPLEMENTARY INFORMATION: The current regulations which govern the Atlantic bluefin tuna fishery allow the Assistant Administrator, on or about September 1, to adjust the daily catch limit for the General category to a maximum of three giant Atlantic bluefin tuna (ABT) per day per vessel. This rule would remove the reference to the September 1 date in the regulation allowing the Assistant Administrator to adjust the daily catch limit upward or downward at any time during the season as circumstances warrant.

In 1988 NMFS received a petition from a number of harpoon fishermen to prohibit the use of spotter aircraft in all but the Purse Seine category. The petitioners believe that the proliferation of spotter aircraft, particularly in the Harpoon Boat category, is changing the traditional nature of the fishery. On March 31, 1988 (53 FR 10415), NMFS published a notice in the **Federal Register** soliciting comments on the petition. Many comments were received, the majority of which supported the prohibition.

After a review of all the information presented on this issue, NMFS believes that it is in the best interests of the fishery to prohibit the use of spotter aircraft to aid in the harvest of ABT, except in the Purse Seine category. NMFS believes that the growing use of these aircraft changes the traditional nature of both the Harpoon Boat and General categories. The use of these aircraft together with the large increase of vessels permitted in this category, has greatly accelerated the rate at which the quota is caught. It is believed that a number of boats are attracted to this category because of the lack of a daily catch limit and the possibility of enhancing the catch through the use of an airplane.

NMFS is also concerned that the use of aircraft will concentrate the catch among fewer vessels. Information provided to the Agency indicates that roughly 80 percent of the Harpoon Boat category in 1988 was harvested by vessels assisted by aircraft. These specific issues will be discussed at the public hearings.

All public hearings will begin at 7:00 p.m. The dates and locations of the hearings are scheduled as follows:

June 30, 1989—Treadway Inn, Newport, Rhode Island

July 3, 1989—NOAA Fisheries, One Blackburn Drive, Gloucester, Massachusetts

July 5, 1989—Holiday Inn, Riverhead, New York

July 6, 1989—Holiday Inn, Portland, Maine

July 7, 1989—Quality Inn (formerly Sheraton), Falmouth, Massachusetts

Dated: June 13, 1989

Richard H. Schaefer,

Director, Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89–14390 Filed 6–15–89; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 642

[Docket No. 90639–9139]

RIN 0648–AC55

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to implement Amendment 4 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). This proposed rule would reallocate Atlantic migratory group Spanish mackerel. The intended effect of this proposed rule is to more equitably allocate Atlantic migratory group Spanish mackerel between recreational and commercial users.

DATE: Written comments must be received on or before July 31, 1989.

ADDRESSES: Comments may be sent to, and copies of the draft Environmental

Assessment/Regulatory Impact Review may be obtained from: Mark F. Godcharles, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–893–3722.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the FMP, prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils), and its implementing regulations at 50 CFR Part 642, under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Amendment 4 addresses the allocation of total allowable catch (TAC) for Atlantic migratory group Spanish mackerel (76 percent conmercial and 24 percent recreational) which has contributed to early recreational closures and adverse socioeconomic impacts. For Atlantic migratory group Spanish mackerel, Amendment 4 addresses this problem by establishing a procedure to change the allocation to 50 percent recreational and 50 percent commercial as the TAC increases.

Draft Amendment 4 was prepared and distributed to interested parties in September and October, 1988. Public hearings were held on the draft amendment in 10 cities from Key West, FL to Manteo, NC in October 1988. After consideration of the comments received at the public hearings and Council meetings, written public comments, and comments from their Scientific and Statistical Committees and Advisory Panels, the Councils made their final selection of preferred options at the April 1989 joint Council meeting. The issues, their impacts, and the rationale for the Councils' preferred options are summarized below. A more complete analysis appears in Amendment 4, the availability of which was published in the **Federal Register** (54 FR 23238, May 31, 1989).

Background

The current allocation of TAC of 76 percent to commercial fishermen and 24 percent to recreational fishermen in the Atlantic migratory group Spanish mackerel fishery does not reflect the allocation that existed during the early to mid 1970's when the fishery was not overfished. The current allocation was based on recreational catch data from 1979–85, a period during which the resource was overfished and when recreational catches and participation were low due to the status of the resource. This allocation has contributed to the early implementation of zero bag limits for the recreational fishery which results in negative socioeconomic impacts to recreational fishermen.

Issue 1. Atlantic Migratory Group Spanish Mackerel Commercial and Recreational Allocations

Current regulations establish an allocation of TAC of 76 percent commercial and 24 percent recreational based on catch data from 1979–85. The Councils concluded that this is inappropriate because the resource was overfished and the recreational share depressed during this time period. New allocations are proposed to more equitably allocate Atlantic migratory group Spanish mackerel between recreational and commercial users.

The Councils considered three options: Option 1 (status quo)—continue the 76 percent commercial and 24 percent recreational allocation; Option 2—reallocate based on estimated average ratios of catches in the period from 1967–74; and Option 3—reallocate 50 percent commercial and 50 percent recreational.

The Councils concluded that the current allocation (76 percent commercial and 24 percent recreational) is inappropriate and selected Option 3 because:

1. The Atlantic migratory group Spanish mackerel resource was overfished and the resulting recreational catches depressed during the years 1979–85 which were used to establish the current allocation.

2. Commercial catches increased during the mid 1970's and the distribution of the resource between recreational and commercial users changed with more being taken commercially. This is also the time when the abundance of the resource began to decline and become more geographically compressed. Recreational catches in Georgia, South Carolina and North Carolina were affected and in these States recreational harvest had previously accounted for the majority of the harvest.

3. The Councils believe, based on the expert knowledge of State fishery directors and other Council members directly associated with the fishery, that recreational catches were higher in the 1970's but quantitative information to support this conclusion is limited. The limited quantitative data from the early 1970's indicates that the Atlantic migratory group Spanish mackerel resource was distributed equally (i.e., 50/50) between the recreational and commercial user groups. Qualitative information such as input from fishermen and the recent reemergence of catches north of North Carolina, indicate that Spanish mackerel are now repopulating this area, as they have in the past, thereby lending support to the Councils' conclusion of higher recreational catches during the 1970's.

4. Now that the Atlantic migratory group Spanish mackerel resource is reduced and harvest capacity and demand of both user groups has expanded to the point that either group could harvest all or most of the available resource, the Councils believe it is more equitable to allocate the resource equally between users.

5. Based on the above, the Councils concluded that a 50/50 allocation would result in benefits greater than costs and maximize the net socioeconomic benefits available from the Atlantic migratory group Spanish mackerel resource.

Issue 2. Method of Implementing Revised Allocations of Atlantic Migratory Group Spanish Mackerel

The Councils considered five options: Option 1—implement the 50/50 reallocation with an effective date when TAC is relatively low and relatively late in the fishing year; Option 2—implement the revised ratios to be effective with the seasonal adjustment for the next fishing year; Option 3—implement the reallocation only as the TAC is increased by providing the increase to the gaining group until the new 50/50 ratio is established. No reduction in any group's allocation would occur unless TAC was subsequently reduced, in which case the existing ratio would apply to the reduced TAC; Option 4 — same as Option 3 except that, in the event of a reduction in TAC, the existing ratio would be applied to the amount of the reduction; and Option 5—implement the reallocation only for the TAC increase above the level which results in a 3.04-million pound commercial allocation, by providing 90 percent of any increase to the recreational allocation and 10 percent to the commercial allocation until the new ratio is established. No reduction in any group's allocation would occur unless the TAC was subsequently reduced, in which case the ratio in place at that time would apply. However, the 50/50 ratio would be implemented no later than the 1994/95 fishing year. The Councils selected Option 5 because this mechanism best moderates any negative socioeconomic impacts the reallocation may have on the commercial sector and provides a gradual redistribution (as long as the TAC changes gradually)

without decreasing any group's existing quota. This implementation procedure establishes a base level of 3.04 million pounds for the commercial fishery, that is, 76 percent of the TAC for the 1988/89 fishing year. The Councils have recommended a TAC of 6 million pounds for the 1989/90 fishing year. The increase in the TAC of 2.0 million pounds is to be shared with 10 percent (0.2 million pounds) going to the commercial allocation and 90 percent (1.8 million pounds) going to the recreational allocation. The resulting allocations for the 1989/90 fishing year, assuming increased TAC and Amendment 4 are approved, would be:

TAC=6.0 million pounds
Commercial allocation=3.24 million pounds (54 percent)
Recreational Allocation=2.76 million pounds (46 percent)

It is the Councils' intent that these allocations take effect when Amendment 4 is approved and implemented. Throughout the procedural development and preparation of Amendment 4, it had been the Councils' expressed intent that the revised allocations be in place prior to the 1989/90 fishing year. Unfortunately, due to procedural delays, this was not possible. However, the Councils have concluded that, based on the urgent nature of reallocation under increasing TACs, this action is justified and have requested that the final rule specifying TACs and allocations for the 1989/90 fishing year indicate that Amendment 4 proposes to alter the Atlantic Spanish mackerel allocations.

If Amendment 4 is approved, implementation would be needed by the beginning of November. Since the majority of the commercial harvest does not occur until December/January each year, commercial catches should not exceed the 3.24-million pound level prior to implementation of Amendment 4. If unforeseen circumstances were to occur, and the commercial harvest were to exceed the 3.24-million pound level before Amendment 4 is implemented, it is the intent of the Councils that the commercial fishery be closed and the remaining TAC be applied to the recreational allocation upon implementation of Amendment 4.

The Councils concluded that this implementation procedure is fair and equitable to the commercial sector because a commercial allocation of 3.24 million pounds would exceed the average of the 1970–74 catches (3,098,600 pounds), the period prior to the large increase in commercial catches of the mid to late 1970's. The Atlantic migratory group Spanish mackerel resource is believed to have not been overfished during this time period and allocating the commercial sector a base amount exceeding what they were catching at that time would be fair to them. Allocating most of the remainder to the recreational sector, would also be fair to that user group. In addition, providing 10 percent of the increase to the commercial sector allows them to share in the benefits of rebuilding the resource while still progressing toward the 50/50 allocation.

A commercial quota of 3.24 million pounds for the 1989/90 fishing year would be a reduction of 41 percent from the 1979–86 average catch or 23 percent from the average of 1981–86. It only represents a reduction of 1 percent from the 1984–86 average catch but a 13 percent increase over the 1986–87 average catch. Foregone earnings to the commercial sector can be estimated by comparing the allocation with the 76/24 ratio (4.56 million pounds) to the allocation with the interim ratio (3.24 million pounds). The difference is 1.32 million pounds with an estimated ex-vessel value of approximately $450,000. On the recreational side, the methodology to analyze the benefits from doubling the allocation has been developed but work in this area has not been conducted. However, estimates of total annual gains of between $2.5 and $25.5 million were obtained for Gulf king mackerel by doubling the allocation.

The Councils concluded that the resulting impact on the commercial sector will not be significant during the period when the recreational allocation is allowed to increase to the level of the commercial allocation. In actuality, because of the increase in TAC proposed for this fishing year (1989/90), the value of the commercial allocation should increase over last fishing year (1988/89) by approximately $68,000.

The proposed changes to 50 CFR 642.21 in this action are an illustration of the preferred methodology explained above. The illustration is based on the implementation of a TAC of 6.0 million pounds for Atlantic group Spanish mackerel for the 1989/90 fishing year that is being proposed in a separate proceeding (see 54 FR 24920, June 12, 1989). NOAA proposes to use the preferred methodology to derive the final changes to 50 CFR 642.21. If no increased TAC is implemented, no changes are proposed to be made to 50 CFR 642.21.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended by Pub. L. 99–659, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 15 days of receipt of an FMP amendment and regulations. At this time, the Secretary has not determined that Amendment 4, which this proposed rule would implement, is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Under Secretary for Oceans and Atmosphere, NOAA, determined that this proposed rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This proposed rule, if adopted, is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Councils prepared a regulatory impact review which concludes that this rule will have the economic effects discussed above in the analysis of the management measures of Amendment 4. A copy of the review may be obtained at the address listed above.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities for the following reasons. The commercial sector will be allocated an amount in excess of their average catch from 1970–74 when the resource was not overfished. In addition, the current allocation represents a 13 percent increase over the 1986–87 average catch. As a result, a regulatory flexibility analysis was not prepared.

The Councils determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of North Carolina, South Carolina, Florida, Alabama, Mississippi, and Louisiana. Georgia and Texas do not have

approved coastal zone management programs. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

The Councils prepared an environmental assessment (EA) that discusses the impact on the environment as a result of this rule. A copy of the EA may be obtained at the address listed above and comments on it are requested.

This proposed rule does not contain a collection of-information requirement for purposes of the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing.

Dated: June 12, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

As is explained in the preamble, 50 CFR Part 642 is proposed to be amended as follows:

PART 642—COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

1. The authority citation for Part 642 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 642.21 [Amended]

2. In § 642.21, in paragraph (c)(2) the number "3.04" is revised to read "3.24" and in paragraph (d)(2) the number "0.96" is revised to read "2.76".

[FR Doc. 89-14300 Filed 6-12-89; 3:33 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 54, No. 115
Friday, June 16, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 89-103]

Notice of Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that two applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR Part 340, which regulates the introduction of certain genetically engineered organisms and products.

FOR FURTHER INFORMATION CONTACT: Mary Petrie, Program Analyst, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permit Unit, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR Part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) in the United States, certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications to release genetically engineered organisms into the environment:

Application number	Applicant	Date received	Organism	Field test location
89-136-01	Pioneer Hi-Bred International, Inc..	05-16-89	Alfalfa plants genetically engineered to contain the coat protein of Alfalfa Mosaic Virus.	Iowa.
89-136-04	Calgene, Inc.	05-16-89	Tobacco plants genetically engineered to express glyphosate herbicide tolerance.	California.

Done in Washington, DC, this 12th day of June 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-14372 Filed 6-15-89; 8:45 am]

BILLING CODE 3410-34-M

Soil Conservation Service

Upper Tiffin Watershed, Ohio and Michigan; Environmental Impact Statement

AGENCY: Soil Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Tiffin Watershed, Fulton, Williams, Defiance, and Henry Counties, Ohio, and Hillsdale and Lenawee Counties, Michigan.

FOR FURTHER INFORMATION CONTACT: Joseph C. Branco, State Conservationist, Soil Conservation Service, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone 614-469-6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Joseph C. Branco, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

Finding of No Significant Impact for Upper Tiffin Watershed, Fulton, Williams, Defiance, and Henry Counties, Ohio, Hillsdale and Lenawee Counties, Michigan

Introduction

The Upper Tiffin Watershed is a federally assisted action authorized for planning under Pub. L. 83-566, the Watershed Protection and Flood Prevention Act. An environmental assessment was undertaken in conjunction with the development of the watershed plan. This assessment was conducted in consultation with local, state, and federal agencies as well as with interested organizations and individuals. Data developed during the assessment are available for public review at the following location: U.S. Department of Agriculture, Soil Conservation Service, 200 North High Street, Room 522, Columbus, Ohio 43215.

Recommended Action

Proposed is the development of conservation plans that will provide for land treatment measures to be applied on farms for reduction of erosion and sedimentation, and flood protection of agricultural land. The plan consists of 64,750 acres of conservation tillage, 37,400 acres of cover crops, 398,000 feet of field windbreaks, 10,200 acres of crop residue use, 500 acres of grassed waterways, 1,100 grade stabilization structures, 70 acres of cropland conversion, and accelerated technical assistance for land treatment.

The project concerns a plan for flood control and watershed protection. The planned works of improvement include 64,750 acres of conservation tillage, 37,400 acres of cover crops, 398,000 feet of field windbreaks, 10,200 acres of crop residue use, 500 acres of grassed waterways, 1,100 grade stabilization structures, 70 acres of cropland conversion, and accelerated technical assistance.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert L. Burris.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Joseph C. Branco,

State Conservationist.

Date: June 6, 1989.

[FR Doc. 89–14122 Filed 6–15–89; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Permits; Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of issuance of an experimental fishing permit.

SUMMARY: This notice announces the issuance of an experimental fishing permit to harvest groundfish with domestic trawl vessels using detachable codends of various mesh sizes in the exclusive economic zone off the coasts of Washington, Oregon, and California. The permit authorizes experimental fishing practices that otherwise would be prohibited by Federal regulations. This action is authorized by the Pacific Coast Groundfish Fishery Management Plan and its implementing regulations.

EFFECTIVE DATES: June 15, 1989, through December 31, 1989.

ADDRESSES: Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 3000 S. Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: William L. Robinson, 206–526–6140; or Rodney R. McInnis, 213–514–6199.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) and its implementing regulations at 50 CFR Part 663 specify that experimental fishing permits (EFPs) may be issued to authorize fishing that would otherwise be prohibited by the FMP and regulations. The procedures for issuing EFPs are contained in the regulations at 50 CFR 663.10.

An EFP application to harvest groundfish with bottom trawl gear using detachable codends of various mesh sizes in the exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California was received on March 23, 1989. The application represents the third of four phases of the West Coast Groundfish Mesh Size Study, and the second of two years of field work that began in 1988. The major goal of the experimental fishery is to compare the composition of catches under current mesh size regulations that implement the FMP, to catches that result from the use of different mesh sizes. Current groundfish regulations at 50 CFR 663.26 prohibit the use of a mesh size smaller than four and one-half inches in bottom trawls and prohibit detachable codends if the vessel is carrying a net with smaller than four and one-half inch mesh. In addition, in order to obtain meaningful results in comparing the relative effectiveness of gear regulations to trip limits, the applicant requested that the EFP waive current trip poundage limits and groundfish quota restrictions for vessels engaged in experimental fishing under the permit. A notice acknowledging receipt of the application, describing the proposal, and requesting public comment was published in the **Federal Register** on April 5, 1989 (54 FR 13731). No written comments were received. The application was considered by the Pacific Fishery Management Council, including the directors of the fishery management agencies of Washington, Oregon, California, and Idaho, at its April, 1989 public meeting in Portland, Oregon. The Council recommended that NMFS issue an EFP, as requested by the applicant, except that each experimental fishing trip should be subject to the prevailing trip frequency restrictions. The NMFS has incorporated the Council recommendations in the terms and conditions of the EFP that was issued under the provisions of 50 CFR 663.10.

The EFP was issued to Dr. Ellen Pikitch, University of Washington, on May 8, 1989. The EFP authorizes 50 domestic trawl vessels to engage in experimental fishing under the direction of Dr. Pikitch, according to the terms and conditions of the permit, from June 1, 1989, through December 31, 1989, in the EEZ off the coasts of Washington, Oregon, and California. Under the terms and conditions of the permit, an observer from the University of Washington must be aboard each vessel during experimental fishing and present during the unloading of fish taken from each experimental trip. The permitted vessels are authorized to use detachable codends of various mesh sizes when involved in experimental fishing as directed by the permit holder. The prevailing groundfish trip poundage limitations or optimum yield (quota) closures do not apply to each experimental fishing trip; however, the prevailing trip frequency limits will apply. The permittee is required to provide advance notification to NMFS of each departure and arrival of vessels conducting experimental fishing. The permittee plans to schedule up to 50 experimental fishing trips under the EFP. The permittee will prepare a comprehensive report on the results of the experimental fishery under a project supported by a Saltonstall-Kennedy grant entitled "West Coast Groundfish Mesh Size Study."

Further details or a copy of the permit may be obtained from a NMFS Regional Director at the above addresses.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 12, 1989.

David S. Crestin,

Acting Director, Office of Fishery Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89–14302 Filed 6–15–89; 8:45 am]

BILLING CODE 3512–22–M

Permits; Foreign Fishing

This document publishes for public review and comment a summary of applications received by the Secretary of State. The applications request permits for foreign vessels to fish in the Exclusive Economic Zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*). Send comments on applications to:

NOAA—National Marine Fisheries Service, Office of Fisheries Conservation and Management, Operations Support and Analysis Division, 1335 East West Highway, Silver Spring, Maryland 20910.

or, to the appropriate Regional Fishery Management Council reviewing applications, as listed below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906, 617/231–0422.

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building,Room 2115, 320 South New Street, Dover, DE 19901, 302/674–2331.

Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407, 803/571–4366.

Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00918, 809/753–6910.

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813/228–2815.

Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Building, Suite 420, 2000 S.W. First Avenue, Portland, OR 97201, 503/326–6352.

Clarence Pautzke, Executive Director, North Pacific Fishery Management Council, P.O Box 103136, Anchorage, AK 99510, 907/271–2809.

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813, 808/523–1368.

For further information contact John D. Kelly or Robert A. Dickinson (Office of Fisheries Conservation and Management, 301–427–2339).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of applications for foreign fishing permits summarizing the contents of the applications in the **Federal Register.** The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issues this notice on behalf of the Secretary of State.

Individual vessel applications summarized below were received from the Governments of Iceland (IC), Japan (JA), the Polish People's Republic (PL), and the Union of Soviet Socialist Republics (UR).

Dated: June 9, 1989.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management

Fishery codes and designations of Regional Fishery Management Councils which review applications for individual fisheries are as follows:

Code Fishery	Regional fishery management councils
ABS Atlantic Billfish and Sharks.	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA Bering Sea and Aleutian Islands Groundfish.	North Pacific.
GOA Gulf of Alaska Groundfish.	North Pacific.
NWA Northwest Atlantic Ocean.	New England, Mid-Atlantic.
SNA Snail (Bering Sea)	North Pacific.
WOC Pacific Coast Groundfish (Washington, Oregon and California).	Pacific.
PBS Pacific Billfishes, Oceanic Sharks, Wahoo, and Mahi-mahi.	Western Pacific.

Activity codes which specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing and other support.
2	Processing and other support only.
3	Other support only.
*	Vessel supporting U.S. vessels [Joint Venture (JV)].
**	Cargo transport vessels with fish finding equipment on board receive an activity code "2" to enable them to scout as well as perform other support activities.
Pending	Number to be assigned at a later date.

The Government of the Union of Soviet Socialist Republics submitted an application to take 2,800 metric tons (mt) (meat weight) of sea snails in a directed fishery and 200 mt (meat weight) of sea snails in a JV operation in the Bering Sea. The designated U.S. partner for the JV is Alaska Joint venture Seafoods, Inc.

Vessel (vessel type)	Application/permit	Fishery-Activity (* = joint venture)
Andri I (Factory Ship)	IC-89-0006	GOA-2* BSA-2*
Yoshi Maru No. 38 (Small Stern Trawler)	JA-89-0229	GOA-1* BSA-1*
Andromeda (Large Stern Trawler)	PL-89-0088	NWA-3
18 Syezd Vlksm (Large Stern Trawler)	UR-89-0617	WOC-2*
Alexandr Maksutov (Large Stern Trawler)	UR-89-0553	WOC-2*
Arhimed (Large Stern Trawler)	UR-89-0810	WOC-2*
Arktika (Factory Ship)	UR-89-0845	NWA-3
Baganovo (Large Stern Trawler)	UR-89-0758	WOC-2*
Boksit (Large Stern Trawler)	UR-89-0841	WOC-2*
Chelkar (Medium Stern Trawler)	UR-89-0849	SNA-1*
Cheremkhovo (Medium Stern Trawler)	UR-89-0850	SNA-1*
Dimant (Cargo/Transport Vessel)	UR-89-0449	NWA-3
Etalon (Cargo/Transport Vessel)	UR-89-0848	NWA-3
Finskiy Zaliv (Cargo/Transport Vessel)	UR-89-0438	WOC-3
Gefest (Large Stern Trawler)	UR-89-0842	WOC-2*
Iohannes Vares (Factory Ship)	UR-PENDING	NWA-3
Ivan Ajvazovskij (Cargo/Transport Vessel)	UR-89-0361	NWA-3
Ivan Korzunov (Large Stern Trawler)	UR-89-0846	WOC-2*
Ivan Lyudnikov (Large Stern Trawler)	UR-89-0837	WOC-2*
Izumrudnyi (Large Stern Trawler)	UR-89-0747	WOC-2*
Kizir (Large Stern Trawler)	UR-89-0081	WOC-2*
Minusinsk (Tanker Fuel/Water)	UR-PENDING	NWA-3
Nadezhda (Large Stern Trawler)	UR-89-0061	WOC-2*
Neftekamsk (Tanker Fuel/Water)	UR-89-0354	NWA-3
Ostrov Kotlin (Cargo/Transport Vessel)	UR-89-0454	WOC-3
Pasvalis (Large Stern Trawler)	UR-89-0811	WOC-2*
Pionersk (Factory Ship)	UR-89-0847	NWA-3
Pisatel (Large Stern Trawler)	UR-89-0561	WOC-2*
Pokrovsk (Medium Stern Trawler)	UR-PENDING	SNA-1*
Propagandist (Large Stern Trawler)	UR-89-0220	WOC-2*
Publicist (Large Stern Trawler)	UR-89-0069	WOC-2*
Riga (Factory Ship)	UR-89-0814	NWA-3
Rubinovyi (Large Stern Trawler)	UR-89-0716	WOC-2*
Sayanskie Gory (Cargo/Transport Vessel)	UR-89-0262	WOC-3
Tatarstan (Cargo/Transport Vessel)	UR-89-0803	WOC-3 GOA-3 BSA-3
Tavria (Cargo/Transport Vessel)	UR-89-0843	WOC-3 GOA-3 BSA-3
Teljshaj (Large Stern Trawler)	UR-89-0840	WOC-2*
Triton (Large Stern Trawler)	UR-89-0839	WOC-2*
Ust Kan (Tanker Fuel/Water)	UR-89-0844	WOC-3 GOA-3 BSA-3
Vasily Grechishnikov (Large Stern Trawler)	UR-89-0812	WOC-2*
Vyjtna (Large Stern Trawler)	UR-89-0631	WOC-2*

[FR Doc. 89-14301 Filed 6-15-89; 8:45 am]
BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Austin Powder Co.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Austin Powder Company, having a place of business at 25800 Science Park Drive, Cleveland, Ohio 44122, an exclusive license in the United States to practice the invention entitled, "Non-incendive Rock Breaking Explosive Charge," U.S. Patent Application Serial Number 6-480,793, now U.S. Patent Number 4,537,133. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Interior.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments, and other materials relating to the proposed license must be submitted to Charles A. Bevelacqua, Director, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

A copy of the instant patent may be purchased from the Commissioner of

Patents, U.S. Patent & Trademark Office, Washington, DC 20231.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, Department of Commerce.

[FR Doc. 89-14347 Filed 6-15-89; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989 Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1989 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: July 17, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 17, 21 and 28, 1989, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (54 FR 15244, 16148 and 18324) of proposed additions to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018). No comments were received in direct response to the published notice. However, during the comment period, the Committee received a letter from the Governor of a State requesting that a portion of the annual Federal requirement for this and other dressings be shared with an Indian Tribe. According to the letter, the Tribe was in the process of developing the capability to produce this and other dressings. The Committee has decided to add the entire portion because under its regulations it is required to make a decision based upon the impact of a proposed addition on the current or most recent supplier for the item and not on a potential supplier. The Committee also noted that taking the approach proposed by the Governor would not assure that the Indian Tribe in question would receive a contract for the remaining portion of the annual requirement. After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities at fair market prices and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities listed.

c. The actions will result in authorizing small entities to produce the commodities procured by the Government.

Accordingly, the following commodities are hereby added to Procurement List 1989:

Bandage, Gauze, Compressed, Camouflaged
6510-00-200-3180
6510-00-200-3190
Compress and Bandage, Camouflaged
6510-00-200-3075
6510-00-200-3080
Cotton, Purified
6510-00-201-3000

E. R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 89-14345 Filed 6-15-89; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1989 Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1989 services to be provided by workshops for the blind or other severely handicapped.

Comments must be received on or before: July 17, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following services to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018):

Services

Commissary Shelf Stocking and Custodial, Fort Gillem, Georgia.
Commissary Shelf Stocking and Custodial, Fort Sam Houston, Texas.
Janitorial/Custodial, Federal Building and U.S. Courthouse, 507 State Street Hammond, Indiana.
Janitorial/Custodial, Federal Building and U.S. Courthouse, 131 East Fourth Street, Davenport, Iowa.
Janitorial/Custodial, Edward Zorinsky Federal Building, U.S. Post Office and Courthouse, Omaha, Nebraska.
Janitorial/Custodial, U.S. Army Reserve Center, 547 Philadelphia Ave., Reading, Pennsylvania.
Janitorial/Custodial, Building 891, Logistical Systems Operations Center, Hill Air Force Base, Utah.

E. R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 89-14346 Filed 6-15-89; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Science Board; Meeting

In accordance with section 19(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of the Meeting: 6 July 1989.

Time: 0800-16700 hours.

Place: McLean, Virginia.

Agenda: The Army Science Board 1989 Summer Study on Maintaining State-of-the-Art in the Army Command and Control System will meet in executive session to discuss issues regarding proposed R&D efforts in the Army Command and Control System. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 19(d). Contract the Army Science Board Administrative Officer, Sally Warner, for further information at (202)-695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-14348 Filed 6-15-89; 8:45 am]

BILLING CODE 3710-8-M

DEPARTMENT OF EDUCATION

National Advisory Committee on Accreditation and Institutional Eligibility; Amendment to Notice of Public Meeting

SUMMARY: This amends the notice of a public meeting of the National Advisory Committee on Accreditation and Institutional Eligibility, published in the Federal Register on Thursday, June 1, 1989, in Volume 54, No. 104, page 23513.

DATES: June 27—8:30 a.m. until 5:30 p.m. June 28—8:30 a.m. until 5:30 p.m.

ADDRESSES:

Location: The location has been changed from: The Embassy Square Suites Hotel, 2000 N Street, NW, Washington, D.C. 20036

To: The Holiday Inn Crowne Plaza (The Washington Room), 300 Army Navy Drive, Arlington, Virginia 22202

FOR FURTHER INFORMATION CONTACT: Dr. W. Stanley Kruger, National Advisory Committee on Accreditation and Institutional Eligibility, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 3082 ROB–3), Washington, DC 20202–5152, Telephone: 202–732–5661.

SUPPLEMENTARY INFORMATION: The public is being given less than 15 days' notice due to a change in the location of the meeting.

Signed in Washington, DC on June 14, 1989.

James B. Williams,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 89–14575 Filed 6–15–89; 8:45 am]

BILLING CODE 4000–01–M

Office of Elementary and Secondary Education

Intent To Repay to the Michigan State Department of Education, Funds Recovered as a Result of a Final Audit Determination.

AGENCY: Department of Education.

ACTION: Intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA) (1982), the Secretary of Education (Secretary) intends to repay to a State educational agency (SEA), the Michigan State Department of Education, an amount equal to 75 percent of the funds recovered by the Department of Education as a result of a final determination. This notice describes the SEA's plan for the use of the repaid funds and the terms and conditions under which the Secretary intends to make these funds available and invites comments on the proposed grantback.

DATE: All written comments must be received on or before July 17, 1989.

ADDRESS: All written comments should be submitted to William L. Stormer, Director, Division of Program Support, Office of Migrant Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 2151), Washington, DC 20202–6135.

FOR FURTHER INFORMATION CONTACT: Mr. William L. Stormer. Telephone (202) 732–4757.

SUPPLEMENTARY INFORMATION:

A. Background

On September 29, 1986, the Department of Education recovered $288,852, within this amount $274,236 was attributed to the Migrant Education Program in satisfaction of an Office of Inspector General's Report on State administrative costs under Title I of the Elementary and Secondary Education Act for the period October 1, 1977 through September 30, 1980. The primary objective of the audit was to determine whether administrative costs incurred and charged to the Title I State Migrant Education Program grant were reasonable, allocable, and allowable and had been expended in a manner consistent with the governing statute and regulations.

The auditors found that the SEA had assigned Migrant Education program funds for State administrative functions that violated the statutory and regulatory requirements governing the use of program funds made available under former section 141 of Title I of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). In particular Departmental regulations, in 45 CFR 116d (1978), permitted an SEA to use Migrant Education funds to pay the administrative costs of those functions that are unique to the Migrant Education program or that are the same or similar to the functions performed by LEAs in the State.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA (1982), 20 U.S.C. 1234e(a), provides that whenever the Secretry has recovered funds, following a final audit determination, with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that—

(1) Practices and procedures of the SEA that resulted in the audit determination have been corrected, and that the SEA is, in all other respects, in compliance with the requirements of the applicable program;

(2) the SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the applicable program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exceptions; and

(3) Use of funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which the funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 456(a)(2) of GEPA (1982), the SEA has applied for a grantback of $205,667 and has submitted a plan to use the grantback funds to meet the special educational needs of eligible migratory children in programs administered under Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965, as amended (Chapter 1) U.S.C. 3801 *et seq.*). The final determination included audit exceptions to the use of Title I Migrant Education Program funds for administrative costs by the Michigan Department of Education. The State's proposal for the use of grantback funds reflects the requirements in Chapter 1. The SEA plan proposes to use the grantback funds to supplement the regular Chapter 1 Migrant Education Program to expand the educational opportunities for secondary school-aged students attending summer school in order that they may receive additional instruction in specific secondary school courses necessary for graduation in their home State. The SEA proposes that the local operating agencies offering summer migrant education programs will use the grantback funds for secondary school educational and support services permitted under the regulations.

D. The Secretary's Determination

The Secretary has carefully reviewed the plan submitted by the SEA. Based upon that review, the Secretary has determined that the conditions under Section 456 of GEPA (1982) have been met. These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

E. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 456(d) of GEPA (1982) requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 456(d) of GEPA (1982), notice is hereby given that the Secretary intends to make funds available to the Michigan Department of Education under a grantback arrangement. The grantback would be in the amount of $205,667, which is nearly 75 percent—the maximum percentage authorized by the statute—of the funds recovered by the Departemnt as a result of the audit.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

The SEA agrees to comply with the following terms and conditions under which payment under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan the SEA submitted and any amendments to that plan are approved in advance by the Secretary; and

(c) The budgets submitted with the plan and any amendments to the budgets are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by September 30, 1989, in accordance with section 456(c) of GEPA (1982) and the SEA's plan.

(3) The SEA will, not later than January 1, 1990, submit a report to the Secretary which—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budgets, and

(b) Describes the results and effectivenes of the project for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

(Catalog of Federal Assistance Number 84.011, Migrant Education Program, Basic State Grant Formula Grant Program)

Dated: June 12, 1989.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 89–14306 Filed 6–15–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award Grant to TRD Corp.

AGENCY: U.S. Department of Energy.

ACTION: Notice of Unsolicited Financial Assistance Award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, it is making a financial assistance award based on an unsolicited application under Grant Number DE–FG01–89CE15410 to TRD Corporation.

Scope

The funding for this grant will allow the grantee to develop, design and build an advanced prototype for a condensing mode of a gas-fired, high efficiency, residential furnace.

The purpose of this project is to improve the energy efficiency over conventional furnaces by at least 3–5 percent.

Eligibility

Based on receipt of an unsolicited application, eligibility of this award is being limited to TRD Corporation. The project represents a unique idea for which a competitive solicitation would be inappropriate. This project has high technical merit and represents an innovative technology which has a strong possibility of allowing for future reductions in the nation's energy consumption.

The term of this grant shall be 24 months from the effective date of award. The estimated cost of this grant is $80,040.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, Attn: Phyllis Morgan, MA–453.2, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 89–14388 Filed 6–15–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. QF86–1038–002 et al.]

Hennepin Energy Resources Co., Limited Partnership, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Hennepin Energy Resource Co., Limited Partnership

[Docket No. QF86–1038–002]

June 9, 1989.

On May 26, 1989, Hennepin Energy Resources Co., Limited Partnership (Applicant), of 4520 Executive Park Drive, P.O. Box 4577, Montgomery, Alabama 36103–4577, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Minneapolis, Minnesota. The facility as originally proposed was to consist of three waterwall steam generators and a steam turbine generator. The primary energy source will be municipal solid waste.

The original application was filed on September 12, 1986 and granted on December 17, 1986 (37 FERC ¶62,239). The recertification is requested due to the decrease of a waterwall steam generator from three to two, increase in the net electric power production capacity from 29.3 MW to 31.7 MW, addition of a .72 mile transmission line and a change of ownership from Hennepin Energy Resource Co., Limited Partnership to United States Trust Company of New York as Owner Trustee for one or more investors, including a wholly owned subsidiary of General Electric Capital Corporation, as owner Participant.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

2. City of Holyoke Gas and Electric Department, City of Westfield Gas and Electric Light Department, Marblehead Municipal Light Department, Middleborough Municipal Gas and Electric Department, North Attleboro Electric Department, Peabody Municipal Light Plant, Shrewsbury Electric Light Department, Templeton Municipal Light Plant Town of Boylston Municipal Light Department, Town of Hudson Light and Power Department, Town of Littleton Municipal Light and Water Department, Town of Wakefield Municipal Light Department and West Boylston Municipal Lighting Plant v. Boston Edison Company

[Docket No. EL87-13-004]

June 9, 1989.

Take notice that on May 22, 1989, the Boston Edison Company of Boston, Massachusetts 02199 (Edison) filed with the Commission a compliance billing report in accordance with the requirements of the Commission's order of March 23, 1989, in the above-referenced proceeding. Edison states that copies of the filing have been served on all persons listed on the Commission's official service list.

Comment date: June 23, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Hennepin Energy Resource Co., Limited Partnership

[Docket No. ER89-462-000]

June 12, 1989.

Take notice that on May 26, 1989, Hennepin Energy Resource Co., Limited Partnership (Hennepin), 4520 Executive Park Drive, P.O. Box 4577, Montgomery, Alabama 36103-4577, tendered for filing with the Federal Energy Regulatory Commission (Commission) its proposed initial rate schedule for sales of electric power to Northern States Power Company (NSP) from a qualifying small power production facility.

The Hennepin facility, located in Minneapolis, Minnesota, will use biomass in the form of municipal solid waste as its primary energy source. The facility was certified as a qualifying small power production facility by Order of the Director of Electric Regulation on December 17, 1986, 37 FERC ¶ 62,239 (1986). Recertification is being sought in that docket due to modification of the power production capacity to 31.7 MW net and a proposed change in ownership of the facility through a sale and leaseback transaction. As a qualifying facility in excess of 30 MW, Hennepin is subject to the Federal Power Act and related regulations.

Hennepin's proposed initial rate is set forth in Appendix 2 to the Resource Recovery Electric Sale Agreement between NSP and Hennepin tendered for filing. In addition to Commission acceptance of the proposed rates, Hennepin requests waiver of certain Commission Regulations regarding cost-of-service documentation, accounting and reporting requirements and various corporate regulations. Regarding the proposed change in ownership, Hennepin also seeks (1) Commission authorization under sections 203 and 204 of the Federal Power Act for the sale and leaseback transaction; and (2) a disclaimer of jurisdiction over the Owner Trustee and Owner Participant exempting them from regulation as public utilities. United Trust Company of New York will purchase the facility as Owner Trustee, for one or more institutional investors including a wholly owned subsidiary of General Electric Capital Corporation. Hennepin, as Lessee, will operate the facility. A copy of the filing was served on NSP as Hennepin's sole jurisdictional customer.

Comment date: June 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Century Power Corporation (formerly known as Alamito Company)

[Docket No. ER89-464-000]

June 12, 1989.

Take notice that on May 26, 1989, Century Power Corporation (formerly known as Alamito Company) tendered for filing the following submittals:

(1) A Notice of Cancellation of the Ten Year Power Sale Agreement with San Diego Gas & Electric Company, which terminates in accordance with its terms at midnight May 31, 1989. Century Power Corporation requests waiver of the notice requirements so that the applicable rate schedule will terminate concurrently with the underlying contract.

(2) An April 12, 1989 letter agreement with San Diego Gas & Electric Company amending the parties' 1989 Power Sales Agreement to provide that Century Power Corporation will be responsible for losses to the point of delivery to San Diego Gas & Electric Company. Waiver of notice is requested so that the letter agreement may become effective on May 30, 1989, the effective date designated by the Commission for the 1989 Power Sales Agreement.

(3) A May 1, 1989 letter agreement with the Western Area Power Administration (WAPA) providing for the sale of nonfirm, surplus energy from June 1 through September 30, 1989. It is expected that Century Power Corporation will supply about 30 GWh in June 16, 19 GWh in July and August, and 15 GWh in September. Century Power Corporation asks for waiver of notice to permit an effective date of June 1, 1989, consistent with the agreement.

Comment date: June 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Green Mountain Power Corporation

[Docket No. ER89-465-000]

June 12, 1989.

Take notice that on May 26, 1989, Green Mountain Power Corporation tendered for filing a proposed Electric Service Agreement for wholesale electric service by GMP to the Hardwick Electric Department, Town of Hardwick, Vermont pursuant to Green Mountain's FERC Electric Tariff Power Rate W. GMP has requested waiver of the 60-day notice requirement set forth in Section 35.3 of the Commission's regulations in order to permit service under the Electric Service Agreement to commence on July 1, 1989.

Comment date: June 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Iowa Public Service Company

[Docket No. ER89-466-000]

June 12, 1989.

Take notice that on May 30, 1989, Iowa Public Service Company, tendered for filing an executed Firm Capacity Sales Agreement, dated April 24, 1989, whereby Iowa Public Service Company (IPS) will sell to Iowa Power & Light Company (Iowa Power) 50 megawatts (MW) firm peaking capacity and associated energy for a period commencing May 1, 1989 and ending October 31, 1989. IPS requests that the negotiated Agreement be made effective as of May 1, 1989.

Comment date: June 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Gas and Electric Company

[Docket No. ER89-468-000]

June 12, 1989.

Take notice that on May 30, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing two rate changes effective April 1, 1979 and April 1, 1984 which affects the Arvin-Edison Water Storage District (Arvin). These changes were made pursuant of Paragraph 6 of the original letter agreement (Agreement) between Arvin and PG&E dated December 22, 1967 regarding monthly billing for metering services provided by PG&E to Arvin.

Comment date: June 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Central Illinois Public Service Company

[Docket No. ER89-458-000]

June 12, 1989.

Take notice that on May 25, 1989, Central Illinois Public Service Company (CIPS) tendered for filing a new Coordination Power Agreement between American Municipal Power-Ohio, Inc. (AMP-O) and Central Illinois Public Service Company, dated May 1, 1989.

CIPS requests an effective date of May 1, 1989, and therefore requests a waiver of the Commission's notice requirements.

The Coordination Power Agreement is intended to replace, in its entirety, the presently effective Short Term Agreement between CIPS and AMP-O. The Coordination Power Agreement contains proposed service schedules for Short Term Power and Limited Term Power.

Copies of this filing have been sent to American Municipal Power-Ohio, Inc., the Public Utilities Commission of Ohio and the Illinois Commerce Commission.

Comment date: June 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Iowa Public Service Company

[Docket No. ER89-467-000]

June 12, 1989.

Take notice that on May 30, 1989, Iowa Public Service Company (IPS) tendered for filing an executed Firm Capacity Sales Agreement dated March 29, 1989 whereby IPS will supply Citizens Electric Corporation (CEC) with short-term power and associated energy commencing June 1, 1989 and continuing through September 30, 1989. IPS requests that the negotiated Agreement be made effective as of June 1, 1989.

Comment date: June 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Pool

[Docket No. ER89-463-000]

June 12, 1989.

Take notice that on May 26, 1989, the New England Power Pool (NEPOOL) tendered for filing an additional signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by EUA Power Corporation. EUA Power Corporation has its principal office in Boston, Massachusetts.

NEPOOL indicates that the New England Power Pool Agreement has previously been filed with the Commission as a rate schedule (designated NEPOOL FPC No. 1), and that EUA Power Corporation is filing over 90 other electric utilities as a member in the pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make EUA Power Corporation a member of the pool.

NEPOOL requests an effective date of August 1, 1989, for commencement of participation in the power pool by EUA Power Corporation.

Comment date: June 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. PacifiCorp, Doing Business as Pacific Power & Light Company and Utah Power & Light Company

[Docket No. ER89-356-000]

June 12, 1989.

Take notice that on June 2, 1989, PacifiCorp, doing business as Pacific Power & Light Company and Utah Power & Light Company (PacifiCorp), tendered for filing, in accordance with 18 CFR 35.12 of the Commission's Rules and Regulations, an amendment to its filing of the South Idaho Exchange Agreement (Agreement), Contract No. DE-MS79-89-B92524 dated February 13, 1989 under the docket referenced above.

PacifiCorp renews its request, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that the rate schedule become effective on February 13, 1989, corresponding to the effective date of the Agreement.

Copies of this filing have been supplied to Bonneville Power Administration and the Idaho Public Utility Commission.

Comment date: June 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

12. AEP Generating Company

[Docket No. ER89-470-000]

June 12, 1989.

Take notice that on May 30, 1989, AEP Generating Company (AEGCO) filed with the Commission proposed changes to a unit power agreement between AEGCO and Indiana Michigan Power Company (I&M), for the sale of power and energy from the Rockport generating plant.

The changes are, for the most part, necessary in light of certain agreements entered into by AEGCO on March 17, 1989, to sell and lease back Rockport Unit No. 2 (Rockport 2). AEGCO proposes to change the term of the unit power agreement to correspond to the lease agreements, to explicitly include rental lease payments in the cost-of-service formula rate and to properly allocate the effects of the sale/leaseback transaction to Rockport 2. Estimated revenues for the year 1990 under the sale/leaseback transaction and the associated billing changes proposed herein are $39,824,000 lower than under the present ownership and billing arrangements.

In addition, AEGCO seeks to adopt the 75 day coal inventory limitation to Rockport 2 and to delete the equity reopener provision, in accordance with Commission policy.

The changes are proposed to be effective upon the commercial operation date of Rockport 2, presently expected to occur in December 1989. Copies of the filing were served upon the public service Commissions in the states of Kentucky, Indiana and Michigan.

Comment date: June 26, 1989, in accordance with Standard paragraph E at the end of this notice.

13. Empire District Electric Company

[Docket No. ER89-469-000]

June 12, 1989.

Take notice that the Empire District Electric Company, on May 30, 1989, tendered for filing proposed changes in its contract for Wholesale Electric Service with the City of Monett, Missouri.

The proposed changes would allow the terms and conditions of the present contract to remain in effect until April 28, 2009.

Copies of the filing were served upon the City of Monett.

Comment date: June 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-14316 Filed 6-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER89-10-000 et al.]

Kansas Power and Light Company et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Kansas Power and Light Company

[Docket No. ER89-10-000]

June 8, 1989.

Take notice that on May 26, 1989, the Kansas Power and Light Company (KPL) tendered for filing certain Rate Schedules under which KPL will transmit power and energy from the Jeffrey Energy Center, over its transmission facilities, to transmission interconnections with Kansas Gas and Electric Company, Centel Corporation-Western Power Division, and Missouri Public Service Company.

Comment date: June 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Green Mountain Power Corporation

[Docket No. EL89-33-000]

June 9, 1989.

Take notice that on May 26, 1989, Green Mountain Power Corporation (GMP) filed pursuant to Rule 207 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure a Petition for a Declaratory Order finding that (1) GMP's lease of certain gas turbines owned by International Business Machines Corporation is not subject to the Commission's jurisdiction under Section 203 of the Federal Power ACL, and (2) the execution and performance of the lease by IBM will not cause IBM to become a "public Utility" subject to regulation by the Commission under Part II of the Federal Power Act.

GMP states that the lease of the gas turbines from IBM will enable it to avoid procuring additional peaking capacity at a higher cost than the lease payments, and will help to diversify its resources. GMP requests that the Commission act on its request as expeditiously as possible in order to permit construction of facilities needed to connect the gas turbines to its electric system before the commencement of its 1989-90 peak demand period.

Comment date: June 30, 1989, in accordance with Standard Paragraph end of this notice

3. Torco Energy Marketing, Inc.

[Docket No. EL89-32-000]

June 9, 1989.

Take notice that on May 30, 1989, Torco Marketing, Inc. (Torco) tendered for filing a petition for declaratory order pursuant to sections 10l(e) and 207(a)(1) of the Commission's Rules of Practice and Procedure, requesting the Commission to clarify the scope of Sections 201 and 203 of Part II of the Federal Power Act, and to waive the application of or grant blanket approval under certain of the Commission's regulations.

Torco seeks clarification and waivers with respect to its proposed electric energy transactions. Torco's intent to receive the same clarifications and waivers granted in *Citizens Energy*, Docket No. EL86-2-000 and *Howell Gas Management*, Docket No. EL87-50-000.

Torco intends to enter into wholesale transactions in which it will act as intermediary between two utilities. Such transactions will involve the purchase by Torco of wholesale electric power and energy from utilities with excess generating capacity for resale to electric utilities. Torco will act as an intermediary in such transactions, and will earn a margin on each sale. Torco will not own or operate electric generation or transmission facilities. Torco seeks clarification that funds created by such transactions are not "facilities" within the meaning of section 203 of the Federal Power Act. Torco also requests clarification that its activities as a broker, where it does not purchase and sell electricity, are not subject to Commission jurisdiction.

In addition, Torco requests waiver of or blanket approvals under various regulations of the Commission in order to limit the administrative burden. Torco submits that the regulations under which it requests waiver or blanket approval are designed for franchised utilities with service obligations, and are not useful to the Commission in this case. Such request for waivers or approvals pertains to the Commission's accounting and periodic reporting requirements, Parts 41, 50, 101, and 141; regulations concerning interlocking directorships and officers, Part 45 and 46; regulations concerning future issuances of securities and assumptions of liability, Part 34; and rate schedule filing requirements, Subparts B and C of Part 35.

Comment date: June 30, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Northern California Power Agency v. Pacific Gas and Electric Company

[Docket No. EL89-34-000]

June 9, 1989.

Take notice that on May 31, 1989, Northern California Power Agency (NCPA) tendered for filing a complaint and request for declaratory relief against Pacific Gas and Electric Company (PG&E). NCPA states that the complaint concerns the terms of an Interconnection Agreement (on file with the Commission as PG&E Rate Schedule No. 84) among PG&E, NCPA, and various members of NCPA.

NCPA states that certain of PG&E's actions and practices in billing under the Interconnection Agreement are in violation of the Interconnection Agreement, unjust and unreasonable, and warrant relief. NCPA requests that the Commission declare that the PG&E charges at issue violate the Interconnection Agreement and that the Commission order PG&E to cease and desist from seeking to collect sums in excess of, and without regard to, the filed rate. NCPA also requests that the Commission find that the requirement imposed upon NCPA by the Interconnection Agreement to maintain a security deposit of $25,000,000 is unjust, unreasonable, unconscionable, and should be terminated. NCPA also requests that the Commission order PG&E to refund with interest payments received by PG&E inconsistent with the terms of the Interconnection Agreement.

Comment date: July 10, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-14317 Filed 6-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1557-000 et al.]

United Gas Pipe Line Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Co.

[Docket No. CP89-1557-000]

June 9, 1989.

Take notice that on June 1, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1557-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to provide a transportation service for Exxon Corporation (Exxon), a producer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport, on an interruptible basis, up to 61,800 MMBtu of natural gas equivalent per day for Exxon pursuant to a transportation agreement dated June 22, 1988, between United and Exxon. United would receive natural gas at a receipt point in Louisiana, and redeliver equivalent volumes of gas at various delivery points in Louisiana.

United further states that the estimated average daily and annual quantities would be 61,800 MMBtu and 22,557,000 MMBtu respectively. Service under § 284.223(a) commenced September 8, 1988, as reported in Docket No. ST89-3503-000, it is stated.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Williston Basin Interstate Pipeline Co.

[Docket No. CP89-1550]

June 9, 1989.

Take notice that on June 1, 1989, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP89-1550-000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act for authorization to add metering and appurtenant facilities under the blanket certificate issued in Docket No. CP82-487-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williston Basin seeks authorization to construct a sales tap, metering and appurtenant facilities to deliver up to 150 Mcf per year of natural gas to Montana-Dakota Utilities Company for use in providing gas service for space heating purposes for a church. Williston Basin states that the volumes to be delivered are within the certificated entitlement of the customer. Williston Basin states that the estimated cost of the facilities is $756.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Co.

[Docket No. CP89-1570-000]

June 9, 1989.

Take notice that on June 5, 1989, Tennessee Gas Pipeline Company (Applicant), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-1570-000 a request, pursuant to § 284.223 of the Commission's Regulations, for authorization to provide a transportation service for FEC Marketing, Inc. (FEC), a marketing company, under Applicant's blanket certificate issued in Docket No. CP87-115-000 on June 18, 1987, pursuant to section 7(c) of the Natural Gas Act, all as more fully set out in the request on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation agreement dated April 19, 1989, and an amendment dated April 21, 1989, it proposes to transport natural gas for FEC, from receipt points located offshore Louisiana, and in the States of Louisiana, Mississippi, and Alabama. The points of delivery are located in the States of Louisiana, Mississippi, Alabama, and Tennessee.

The Applicant further states that the maximum daily quantity under the contract is 50,000 dekatherms, while it estimates that average day and annual transportation volumes initially will be approximately 50,000 dekatherms and 18,250,000 dekatherms, respectively. Service under § 284.223(a) commenced May 1, 1989, as reported in Docket No. ST89-3645-000 (filed May 26, 1989).

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Panhandle Eastern Pipe Line Co.

[Docket No. CP89-1491-000]

June 9, 1989.

Take notice that on May 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-1491-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a firm transportation service for Bowling Green Gas Company (Bowling), a local distributor, under the blanket certificate issued in Docket No. CP86-585-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Panhandle states that pursuant to a transportation agreement dated April 1, 1989, under its Rate Schedule PT, it proposes to transport up to 1,916 dekatherms (dt) per day equivalent of natural gas for Bowling. Panhandle states that it would receive the gas from Arkla and Transok in Custer County, Oklahoma, and Oklahoma Natural Gas Company in Dewey County, Oklahoma. It is further stated that Panhandle would transport and deliver such gas, less fuel used and unaccounted for line loss, to Bowling in Pike County, Missouri.

Panhandle advises that service under § 284.223(a) commenced April 1, 1989, as reported in Docket No. ST89-3226. Panhandle further advises that it would transport 1,916 dt on an average day and 699,340 dt annually.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Stingray Pipeline Co.

[Docket No. CP89-1575-000]

June 9, 1989.

Take notice that on June 5, 1989, Stingray Pipeline Company (Stingray), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-1575-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Elf Aquitaine, Inc. (EAI), a producer, under the blanket certificate issued by the Commission's Order No. 509, pursuant to section 7 of the Natural Gas Act, corresponding to the rates, terms and conditions filed in Docket No. RP89-70-000, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Stingray states that pursuant to a transportation agreement dated April 12,

1989, under its Rate Schedule ITS, it proposes to transport up to 15,000 dekatherms (dt) per day equivalent of natural gas for EAI. Stingray states that it would transport the gas from various receipt points on its system as shown in Exhibit "A" of the transportation agreement and would deliver the gas, less fuel used and unaccounted for line loss, to Holly Beach and the OXY-NGL plant, both located in Cameron Parish, Louisiana, and Stingray-HIOS Exchange (EHI-A330), located offshore Texas.

Stingray advises that service under § 284.223(a) commenced April 14, 1989, as reported in Docket No. ST89-3202. Stingray further advises that it would transport 2,000 dt on an average day and 730,000 dt annually.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Panhandle Eastern Pipe Line Co.

[Docket No. CP89-1462-000]

June 9, 1989.

Take notice that on May 22, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-1462-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide firm transportation service for the Amgas, Inc. (Amgas), a shipper and marketer of natural gas, under the blanket certificate issued in Docket No. CP86-585-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commision and open to public inspection.

Panhandle states that, it proposes to transport up to 230 dekatherms (dt) per day equivalent of natural gas for Amgas' behalf. Panhandle states that it would transport the gas from various receipt points on its system, and deliver such gas, less fuel used and unaccounted for line loss, to Illinois Power—Champaign—Savoy in Champaign County, Illinois.

Panhandle advises that service under § 284.223(a) commenced April 1, 1989, as reported in Docket No. ST89-3290. Panhandle further advises that it would transport 115 dt on an average day and 41,975 dt annually.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. ANR Pipeline Co.

[Docket No. CP89-1562-000]

June 9, 1989.

Take notice that on June 2, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-1562-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Cornerstone Production, Inc. (Cornerstone), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport on an interruptible basis up to 150,000 dt equivalent of natural gas on a peak day, 150,000 dt equivalent on an average day and 57,750,000 dt equivalent on an annual basis for Cornerstone. ANR states that it would perform the transportation service for Cornerstone under ANR's Rate Schedule ITS. ANR indicates that it would transport the gas from receipt points in the offshore Louisiana, Louisiana and Texas gathering areas, to delivery points located in the offshore Louisiana gathering area.

It is explained that the service commenced April 22, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-3526. ANR indicates that no new facilities would be necessary to provide the subject service.

Comment date: July 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Associated Natural Gas Co., a Division of Arkansas Western Gas Co.

[Docket No. CP89-1487-000]

June 9, 1989.

Take notice that on May 22, 1989, Associated Natural Gas Company, a Division of Arkansas Western Gas Company (Associated), 1001 Sain Street, Fayetteville, Arkansas 72703, filed in Docket No. CP89-1487-000 an application pursuant to section 7(f) of the Natural Gas Act to add Scott and Mississippi Counties, Missouri and parts of New Madrid and Stoddard Counties, Missouri to its existing service area, all as more fully described in the application which is on file with the Commission and open to public inspection.

Associated states that it would construct pipeline facilities to connect its currently isolated local distribution system in the proposed service area to its local distribution system in its existing service area. Associated asserts that the integration of the two areas would provide increased operational flexibility and reliability of service at a minimal cost and also facilitate future supply planning.

Comment date: June 30, 1989, in accordance with Standard Paragraph F at the end of this notice.

9. Tennessee Gas Pipeline Co.

[Docket No. CP89-1548-000]

June 9, 1989.

Take notice that on May 31, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed an application pursuant to section 7(b) of the Natural Gas Act for authorization to abandon its part of an exchange service between Tennessee and Trunkline Gas Company (Trunkline) performed pursuant to authorization received in Docket No. CP80-53. In that docket, Tennessee and Trunkline were authorized to exchange up to 5,000 Mcf per day on a gas for gas basis, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to the terms of the Gas Exchange Agreement dated June 22, 1979 (Agreement) Trunkline gave notice of its intent to terminate the Agreement effective November 1, 1988. In Docket No. CP89-1157-000, Trunkline filed an application pursuant to section 7(b) of the Natural Gas Act for an order authorizing the abandonment of its part of the exchange service.

Comment date: June 30, 1989, in accordance with Standard Paragraph F at the end of the notice.

10. Panhandle Eastern Pipe Line Co.

[Docket No. CP89-1482-000]

June 12, 1989.

Take notice that on May 22, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-1482-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide interruptible transportation service for Mountain Industrial Gas Company (Mountain), a shipper and marketer under the blanket certificate issued in Docket No. CP86-585-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Panhandle states that pursuant to a transportation agreement dated March 31, 1989, under its Rate Schedule PT, it proposes to transport up to 2,000 dekatherms (dt) per day equivalent of natural gas for Mountain. Panhandle

states that it would transport the gas from various receipt points on its system, and deliver such gas, less fuel used and unaccounted for line loss, to Morton County, Kansas.

Panhandle advises that service under § 284.223(a) commenced April 1, 1989, as reported in Docket No. ST89–3295. Panhandle further advises that it would transport 600 dt on an average day and 219,000 dt annually.

Comment date: June 27, 1989, in accordance with Standard paragraph G at the end of this notice.

11. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP89–1583–000]

June 12, 1989.

Take notice that on June 7, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–1583–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Arco Natural Gas Marketing, Inc. (Arco), a marketer, under the blanket certificate issued in Docket No. CP86–435–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that pursuant to a transportation agreement dated April 1, 1989, under its Rate Schedule IT–1, it proposes to transport up to 200,000 MMBtu per day equivalent of natural gas for Arco. Northern states that it would transport the gas from multiple receipt points as shown in Appendix "A" of the transportation agreement and would deliver the gas to multiple delivery points also shown in Appendix "A" of the agreement. Northern also states that the proposed service may involve the compression of gas at its Fort Buford Compressor Station for delivery to Northern Border Pipeline Company.

Northern advises that service under § 284.223(a) commenced April 1, 1989, as reported in Docket No. ST89–3232–000 (filed April 27, 1989). Northern further advises that it would transport 150,000 MMBtu on an average day and 73,000,000 MMBtu annually.

Comment date: June 27, 1989 in accordance with Standard Paragraph G at the end of the notice.

12. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP89–1585–000]

June 12, 1989.

Take notice that on June 7, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–1585–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for West Texas Gas, Inc. (West Texas), a producer, under the blanket certificate issued in Docket No. CP86–435–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that pursuant to a transportation agreement dated May 3, 1989, under its Rate Schedule IT–1, it proposes to transport up to 30,000 MMBtu per day equivalent of natural gas for West Texas. Northern states that it would transport the gas from multiple receipt points as shown in Appendix "A" of the transportation agreement and would deliver the gas to multiple delivery points also shown in Appendix "A" of the agreement.

Northern advises that service under § 284.223(a) commenced May 3, 1989, as reported in Docket No. ST89–3705–000 (filed May 31, 1989). Northern further advises that it would transport 22,500 MMBtu on an average day and 10,950,000 MMBtu annually.

Comment date: July 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Tennessee Gas Pipeline Co.

[Docket No. CP89–1563–000]

June 12, 1989.

Take notice that on June 2, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89–1563–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Tejas Hydrocarbon Company (Tejas), under Tennessee's blanket certificate issued in Docket No. CP87–115–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee requests authorization to transport, on an interruptible basis, up to a maximum of 125,000 dt of natural gas per day for Tejas from receipt points located in Louisiana, offshore Louisiana and Texas to delivery points located in several states off Tennessee's system. Tennessee anticipates transporting, on an average day 125,000 dt and an annual volume of 46,625,000 dt.

Tennessee states that the transportation of natural gas for commenced May 1, 1989, as reported in Docket No. ST89–3544–000, for a 120–day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Tennessee in Docket No. CP87–115–000.

Comment date: July 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. United Gas Pipe Line Co.

[Docket No. CP89–1552–000]

June 12, 1989.

Take notice that on June 1, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1552–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to provide interruptible transportation service on behalf of Conoco Inc. as agent for E. I. DuPont de Nemours and Company, an end user of natural gas under United's blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7 of the Natural Gas act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United States that it would transport 15,450 MMbtu on a peak and average day and 5,639,250 MMbtu on an annual basis.

United further states that it has commenced service under the 120–day automatic authorization and reported such service in Docket No. ST89–3417, pursuant to § 284.223(a) of the Regulations.

Comment date: July 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

15. Panhandle Eastern Pipe Line Co.

[Docket No. CP89–1480–000]

June 12, 1989.

Take notice that on May 22, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–1480–000 a request, as supplemented June 7, 1989, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide firm transportation service for the City of Fulton (Fulton), a shipper and local distribution company under the blanket certificate issued in Docket No. CP86–585–000, pursuant to section 7 of

the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Panhandle states that pursuant to a transportation agreement dated April 1, 1989, under its Rate Schedule PT, it proposes to transport up to 6,386 dekatherms (dt) per day equivalent of natural gas for Fulton. Panhandle states that it would transport the gas from receipt points on its system in Oklahoma, and deliver such gas, less fuel used and unaccounted for line loss, to the City of Fulton in Callaway County, Missouri.

Panhandle advises that service under § 284.223(a) commenced April 1, 1989, as reported in Docket No. ST89–3113. Panhandle further advises that it would transport 2,170 dt on an average day and 792,050 dt annually.

Comment date: July 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

16. Panhandle Eastern Pipe Line Co.

[Docket No. CP89–1470–000]

June 12, 1989.

Take notice that on May 22, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P. O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–1470–000 a request, as supplemented June 7, 1989, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide firm transportation service for the Village of Pleasant Hill (Pleasant Hill), a shipper and local distribution company under the blanket certificate issued in Docket No. CP86–585–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Panhandle states that pursuant to a transportation agreement dated April 1, 1989, under its Rate Schedule PT, it proposes to transport up to 639 dekatherms (dt) per day equivalent of natural gas for Pleasant Hill. Panhandle states that it would transport the gas from a receipt point on its system in Kansas, and deliver such gas, less fuel used and unaccounted for line loss, to the Village of Pleasant Hill in Pike County, Illinois.

Panhandle advises that service under § 284.223(a) commenced April 1, 1989, as reported in Docket No. ST89–3086. Panhandle further advises that it would transport 151 dt on an average day and 55,115 dt annually.

Comment date: July 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89–14318 Filed 6–15–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP72–110–049 et al.]

Algonquin Gas Transmission Co. et al.; Filing of Pipeline Refund Reports

June 12, 1989.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports. The date of filing and docket number are also shown in the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before July 3, 1989. Copies of the respective filings are on file with the Commission and available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

Filing Date	Company	Docket No.
7/28/87	Algonquin Gas Transmission Co.	RP72–110–049
9/20/88	Ozark Gas Transmission System.	IN86–6–002
12/30/88	Algonquin Gas Transmission Co.	RP72–110–048
3/2/89	Midwestern Gas Transmission Corp.	RP89–35–003
5/17/89	Ozark Gas Transmission System.	IN86–6–003
5/18/89	Williams Natural Gas Co.	RP86–68–013
5/25/89	Northwest Pipeline Corp.	RP89–1–009

[FR Doc. 89–14324 Filed 6–15–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP87–389–003]

National Fuel Gas Supply Corp.; Petition To Amend

June 12, 1989.

Take notice that on May 30, 1989, National Fuel Gas Supply Corporation (National Fuel), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP87–389–003, a petition, as supplemented June 7, 1989, to amend the certificate of public convenience and

necessity issued in Docket No. CP87–389–000, as amended, so as to authorize, for an additional one-year period commencing September 24, 1989, the transportation on an interruptible basis of up to 37,399 Mcf per day on behalf of National Fuel Distribution Corporation (Distribution) for the account of 93 of its existing customers. National Fuel also seeks authorization to transport up to 11,209 Mcf per day for the account of 61 additional customers of Distribution for a like term. In addition, Naltional Fuel seeks authorization to transport additional volumes and/or modify receipt or delivery points with respect to certain end users covered by National Fuel's certificates issued in Docket Nos. CP88–759–000, as amended and modified, and CP88–225–000, as amended and modified. Finally, National Fuel seeks an additional one-year term beyond the authorization granted to National Fuel in Docket No. CP88–225–002. All of these requests are more fully set forth in the petition and open to public inspection.

It is stated that National Fuel was authorized on September 23, 1988, in Docket No. CP87–389–000 to transport up to 35,414 Mcf of natural gas per day on behalf of Distribution for the account of 113 customers of Distribution, including 1,000 Mcf per day on behalf of Distribution for the account of Rochester Gas and Electric Corporation. It is stated that on December 16, 1988, and April 27, 1989, the Commission in Docket Nos. CP88–759–000 and CP88–225–002, *et al.*, respectively, authorized National Fuel to transport additional volumes of gas and/or modify the receipt or delivery points applicable to certain of these customers.

National Fuel now requests to further amend the certificates issued in Docket No. CP87–389–000, as amended and modified, so as to extend the term of the interruptible transportation of up to 37,399 Mcf per day on behalf of Distribution for the account of 93 of the original customers (Appendix A) [1] and to add 61 new end-user customers using up to 11,209 Mcf per day (Appendix B).[1]

In addition, National Fuel requests authorization to modify existing certificates in Docket Nos. CP88–759–000, as amended, and CP88–225–000, as amended, in order to increase the transportation volumes authorized therein for 34 end-user customers of Distribution by up to 11,677 Mcf per day (Appendix C(1)) [1] and to change receipt/delivery points for 66 end-user customers (Appendix C(2)) [1].

[1] Appendices A,B,C(1), and C(2) can be picked up in the Office of Public Reference, as they will not be published in the Federal Register.

National Fuel also seeks to extend the term of the authorization issued in Docket No. CP88–225–002 by an additional one year. Details such as receipt/delivery points and sellers are available in National Fuel's application.

National Fuel proposes no change in the authorized rates and proposes no new facilities to implement the change in service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 3, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89–14325 Filed 6–15–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP89–188–000 and RP89–188–001]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

June 12, 1989.

Take notice that on June 7, 1989, Natural Gas Pipeline Company of America (Natural) filed Substitute Original Sheet Nos. 173 and 174 to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective June 1, 1989.

Natural states that the purpose of this filing is flow-through the upstream transition costs allocated to it by Colorado Interstate Gas Company (CIG), Natural's upstream pipeline supplier, in Docket No. RP89–178–000. Natural proposes to flow-through the costs to its customers by using the direct-billing method of recovery. Costs will be allocated among Natural's customers based on past purchase deficiencies using the same Base and Deficiency Periods as CIG used in its filing. Natural's tariff incorporates procedures to permit recovery of future transition costs assessed by CIG and its upstream suppliers or by other upstream pipeline suppliers to Natural.

Natural requests any waivers of the Commission's Regulations as are necessary to allow the tariff sheets to become effective June 1, 1989. A copy of the filing was mailed to Natural's jurisdictional sales customers and interested state regulatory agencies.

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed on or before June 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89–14319 Filed 6–15–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TM89–4–26–000 and RP89–189–000]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

June 12, 1989.

Take notice that on June 7, 1989, Natural Gas Pipeline Company of America (Natural) submitted for filing Sixth Revised Sheet Nos. 169 and 170 to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective July 1, 1989.

Natural states that the purpose of this filing are to (1) recover transition costs related to contracts in litigation at March 31, 1989; (2) revise the accrued interest for the month of May 1989 to reflect actual transition costs incurred in April 1989; and (3) include accrued interest for the month of June 1989. Interest is accrued only on transition costs included for recovery in Natural's prior filings under this proceeding.

Natural requests that the Commission grant any waivers it deems necessary to allow the tariff sheets to become effective July 1, 1989. A copy of the filing was mailed to Natural's jurisdictional sales customers and interested state regulatory agencies, and all parties set out on the official service list in Docket No. RP88–94–000.

Any person desiring to be hear or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed on or before June 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-14323 Filed 6-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-1577-000]

Northern Natural Gas Company Division of Enron Corp.; Request Under Blanket Authorization

June 12, 1989.

Take notice that on June 6, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP89-1577-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Excalibur Energy Corporation (Excalibur), a marketer, under the blanket certificate issued in Docket No. CP86-435-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that pursuant to a transportation agreement dated April 7, 1989, under its Rate Schedule IT-1, it proposes to transport up to 200,000 MMBtu per day equivalent of natural gas for Excalibur. Northern states that it would transport the gas from multiple receipt points as shown in Appendix "A" of the transportation agreement and would deliver the gas to multiple delivery points also shown in Appendix "A" of the agreement. Northern also states that the proposed service may involve the compression of gas at its Fort Buford Compressor Station for delivery to Northern Border Pipeline Company.

Northern advises that service under § 284.223(a) commenced April 7, 1989, as reported in Docket No. ST89-3402-000 (filed May 6, 1989). Northern further advises that it would transport 150,000 MMBtu on an average day and 73,000,000 MMBtu annually.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-14326 Filed 6-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-190-000]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

June 12, 1989.

Take notice that on June 6, 1989, Northwest Pipeline Corporation ("Northwest") submitted Third Revised Sheet No. 31 to be a part of Rate Schedule SGS-1, in its FERC Gas Tariff, First Revised Volume No. 1.

Northwest has requested approval to revise the "Availability" provision of Rate Schedule SGS-1, to ensure availability of SGS-1 services to existing SGS-1 customers. Northwest requests waivers to permit a February 1, 1989 effective date for the aforementioned sheet.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-14320 Filed 6-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-191-000]

Northwest Pipeline Corp.; Proposed Changes in FERC Gas Tariff

June 12, 1989.

Take notice that on June 6, 1989, Northwest Pipeline Corporation ("Northwest") submitted for filing, to be part of its FERC Gas Tariff, the following tariff sheets:

First Revised Volume No. 1

Fourth Revised Sheet No. 101

Original Volume No. 1-A

Seventeenth Revised Sheet No. 201
Second Revised Sheet No. 304
Original Sheet No. 305
Sheet Nos. 306 through 310
First Revised Sheet No. 316
Original Sheet No. 316-A
Second Revised Sheet No. 401
Second Revised Sheet No. 403 and 404
First Revised Sheet Nos. 405 through 407
Second Revised Sheet No. 416

Northwest states that these tariff sheets were revised in order to update certain operating provisions to enhance Northwest's ability to provide more efficient transportation service.

Northwest requests a waiver to permit an effective date of July 1, 1989 for the tendered sheets.

A copy of this filing has been mailed to all jurisdictional customers and affected state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-14321 Filed 6-15-89; 845 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-3-9-000]

Tennessee Gas Pipeline Co.; Rate Change Under Tariff Rate Adjustment Provisions

June 12, 1989

Take notice that on June 6, 1989, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following tariff sheets to its FERC Gas Tariff to be effective July 1, 1989:

Second Revised Volume No. 1

Item A: Substitute Thirteenth Revised Sheet No. 20; Substitute Tenth Revised Sheet No. 20A; Substitute Fifteenth Revised Sheet No. 21.

Item B: Fourth Revised Sheet Nos. 31 through 36.

Original Volume No. 2

Item C: Substitute Fourteenth Revised Sheet No. 5; Substitute Thirteenth Revised Sheet No. 6.

Tennessee states that the revisions listed as Item A reflect PGA current rate adjustments pursuant to section 2 of Article XXIII of the General Terms and Conditions of Tennessee's Tariff.

Tennessee states that the revisions listed as Item B reflect (1) amortization of Order 94 production-related costs pursuant to the settlement agreement approved by the Commission's Order on June 14, 1985 in Docket Nos. CP84-441, *et al.* and (2) recovery of Order 473 compressor fuel costs pursuant to Article XXIX of the General Terms and Conditions.

Tennessee states that the revisions listed as Item C adjust transportation rate schedules to reflect changes in the cost of gas used for fuel pursuant to section 5 of Article XXIII of the General Terms and Conditions.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions. Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-14322 Filed 6-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-67-000, RP88-81-000, and RP88-221-000]

Texas Eastern Transmission Corp.; Informal Settlement Conference

June 9, 1989.

Take notice that a settlement conference will be convened in this proceeding on June 29, 1989, at 2:00 p.m., at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, for the purpose of discussing the procedural dates in the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(c) is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Dennis H. Melvin (202) 357-8076.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-14327 Filed 6-15-89; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Southeastern Power Administration

Order Confirming and Approving Power Rates on an Interim Basis; Correction

AGENCY: Southeastern Power Administration (Southeastern), Energy.

ACTION: Correction of notice approving rate schedules on an interim basis of the Georgia-Alabama projects' rates..

SUMMARY: In the **Federal Register** of June 5, 1989, on page 24026, Southeastern Power Administration published a rate order for the Georgia-Alabama System of Projects. Eight rate schedules were inadvertently omitted from the publication and are included herein. The rate schedules are ALA-3-B, MISS-2-B, GU-1-B, ALA-1-F, MISS-1-F, SC-3-A, CAR-3-A, and SCE-2-A.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Director, Power Marketing, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

Rodney L. Adelman, WDC, Director, Washington Liaison Office, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Issued in Elberton, Georgia, June 9, 1989.

Harry C. Geisinger,

Administrator.

Wholesale Power Rate Schedule ALA-3-B

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in Alabama, owning distribution systems, to whom power may be wheeled pursuant to contracts between the government and the Alabama Power Company (hereinafter called the Company).

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge: Per kilowatt of total contract demand for the period:
June 1989 through September 1990.....$1.74
Energy Charge: Mills per kilowatt-hours.....8.50
Other Transmission Charge: Per kilowatt of total contract demand.....$.20
Transmission Charge: Per kilowatt of total contract demand.....$1.44

This rate is subject to annual adjustment on January 1, and will be computed subject to the Appendix C attached to the Government-Company contract, less

$.11 per kilowatt for use of facilities revenues from the Southern Companies.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption

When energy delivery to the Customer's sytem for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Montly capacity charge}}{\text{Number of days in billing month}}$$

June 1, 1989.

Wholesale Power Rate Schedule MISS–2–B

Availability

This rate schedule shall be available to cooperatives (any one of which is hereinafter called the Customer) in Mississippi, owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and, respectively, the Mississippi Power Company, (hereinafter called the Company).

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge: Per kilowatt of total contract demand for the period:	
June 1989 through September 1990	$1.74
Energy Charge: Mills per kilowatt-hours	8.50
Other Transmission Charge: Per kilowatt of total contract demand	$.20
Transmission Charge: Per kilowatt of total contract demand	$ .71

This rate is subject to annual adjustment on January 1, and will be computed subject to the Appendix C attached to the Government-Company contract, less $.11 per kilowatt for use of facilities revenues from the Southern Companies.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}}$$

June 1, 1989.

Wholesale Power Rate Schedule GU–1–B

Availability

This rate schedule shall be available to cooperatives (any one of which is hereinafter called the Customer) in

Florida, owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and, respectively, the Gulf Power Company, (hereinafter called the Company).

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge: Per kilowatt of total contract demand for the period:
June 1989 through September 1990.....$1.74
Energy Charge: Mills per kilowatt-hours.....8.50
Other Transmission Charge: Per kilowatt of total contract demand.....$ .20
Transmission Charge: Per kilowatt of total contract demand.....$1.52

This rate is subject to annual adjustment on January 1, and will be computed subject to the Appendix C attached to the Government-Company contract, less $.11 per kilowatt for use of facilities revenues from the Southern Companies.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}}$$

June 1, 1989.

Wholesale Power Rate Schedule ALA–1–F

Availability

This rate schedule shall be available to the Alabama Electric Cooperative, Incorporated (hereinafter called the Cooperative).

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters, and Richard B. Russell Projects and sold under contract between the Cooperative and the Government.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at the Walter F. George Project or other points of interconnection between the Cooperative and Alabama Power Company.

Monthly Rate

The monthly rate for capacity, energy, and other transmission sold under this rate schedule shall be:
Capacity Charge: Per kilowatt of total contract demand.....$1.59
Energy Charge: Mills per kilowatt-hour for scheduled energy.....8.50
Other Transmission Charge: Per kilowatt of contract demand.....$ .20

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption

When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have

been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly Capacity Charge}}{\text{Number of days in billing month}}$$

June 1, 1989.

Wholesale Power Rate Schedule MISS–1–F

Availability

This rate schedule shall be available to the South Mississippi Electric Power Association (hereinafter called the Customer) in Mississippi, owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and the Mississippi Power Company (hereinafter called the Company), or Alabama Electric Cooperative, Inc. (hereinafter called AEC).

Applicability

This rate schedule shall be applicable to the sale of wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge: Per Kilowatt of total contract demand for the period:
June 1989 through September 1990.....$1.59
Energy Charge: Mills per kilowatt-hours.....8.50
Other Transmission Charge: Per kilowatt of total contract demand.....$.20
Transmission Charge: Per kilowatt of total contract demand.....$.49

This rate is subject to annual adjustment on January 1, and will be computed subject to the Appendix C attached to the Government-Company contract, less $.11 per kilowatt for use of facilities revenues from the Southern Companies.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly Capacity Charge}}{\text{Number of days in billing month}}$$

June 1, 1989.

Wholesale Power Rate Schedule SC–3–A

Availability

This rate schedule shall be available to the following customers whose requirements or a portion thereof the Government shall contract to supply by delivery from the South Carolina Public Service Authority's (hereinafter called the Authority) system: Town of Bamberg, S.C. and City of Georgetown, S.C.

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the J. Strom Thurmond or the Richard B. Russell Projects (hereinafter called the Projects) and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Authority's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule shall be:

Capacity Charge: Per kilowatt of total contract demand.....$1.66
Energy Charge: Mills per kilowatt-hour.....8.50
Other Transmission Charge: Per kilowatt of total contract demand.....$.20
Transmission Charge: Per kilowatt of total contract demand.....$1.34

The transmission rate is subject to annual adjustment on July 1, and will be computed subject to the formula A attached to the Government-Authority contract.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Authority (less two (2) percent losses). The Customer's contract demand and

accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this rate schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Authority on its side of the delivery point.

Service Interruption

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly Capacity Charge}}{\text{Number of days in billing month}}$$

June 1, 1989.

Wholesale Power Rate Schedule CAR–3–A

Availability

This rate schedule shall be available to the attached list of public bodies and cooperatives (any one of which is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be wheeled pursuant to contract between the Duke Power Company (hereinafter called the Company) and the Government.

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Hartwell, J. Strom Thurmond, and the Richard B. Russell Projects (hereinafter called the Projects) and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule shall be:

Capacity Charge: Per kilowatt of total contract demand.....$1.95
Energy Charge: Mills per kilowatt-hour.....8.50
Other Transmission Charge: Per kilowatt of total contract demand.....$.20
Transmission Charge: Per kilowatt of total contract demand.....$1.44

The rate is subject to annual adjustment on January 21 and will be computed subject to the formula in Appendix A attached to the Government-Company contract.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the customer and the customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less six and one-half (6.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

June 1, 1989.

Wholesale Power Rate Schedule SCE–2–A

Availability

This rate schedule shall be available to the following public bodies (any one of which is hereinafter called the Customer) in South Carolina, owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and the South Carolina Electric & Gas Company (hereinafter called the Company): Town of McCormick, City of Orangeburg, and Town of Winnsboro.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the J. Strom Thurmond, Hartwell, and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge: Per kilowatt of total contract demand.....$1.96
Energy Charge: Mills per kilowatt-hours.....8.50
Other Transmission Charge: Per kilowatt of total contract demand.....$.20
Transmission Charge: Per kilowatt of total contract demand.....$1.78

The rate is subject to annual adjustment on May 21 of each year and will be computed subject to the formula in Appendix A attached to the Government-Company contract.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

June 1, 1989.

[FR Doc. 89-14389 Filed 6-15-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3599-8]

Designation of an Ocean Dredged Material Disposal Site (ODMDS) off Humboldt Bay, Humboldt County, California; Intent To Prepare an Environmental Impact Statement

AGENCY: U.S. Environmental Protection Agency (EPA), Region 9.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) on the designation of an ODMDS for dredged material off Humboldt Bay, Humboldt County, California.

PURPOSE: The U.S. EPA, Region 9, in cooperation with the San Francisco District of the U.S. Army Corps of Engineers (Corps), will prepare a Draft EIS (DEIS) for the designation of an ODMDS for dredged material off Humboldt Bay, Humboldt County, California. An EIS is needed to provide the information necessary to designate a suitable site for disposal of dredged material. This Notice of Intent is issued pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972, and 40 CFR Part 228 (Criteria for the Management of Disposal Sites for Ocean Dumping).

FOR FURTHER INFORMATION CONTACT: Shannon FitzGerald; Oceans and Estuaries Section (W-7-1); U.S. Environmental Protection Agency, Region 9; 215 Fremont Street; San Francisco, California, 94105; telephone number (415) 974-8275, or FTS 454-8275.

SUMMARY: Designation of the Humboldt Bay ODMDS is needed to provide a suitable disposal site or sites for dredged material removed from Humboldt Bay. Disposal of dredged material at any ODMDS is not permitted unless EPA and the Corps determine that the material is acceptable for disposal under EPA's Ocean Dumping criteria at 40 CFR 225 and 40 CFR 227. The Corps issues permits under section 103 of MPRSA subject to EPA review.

In preparation for an ODMDS designation EIS, EPA and the Corps are developing sampling plans which will include trawls, benthic grabs, current studies, and sampling the physical and chemical properties of the sediment and water column. A Corps sponsored survey of the local commercial fishermen is being conducted by WESCO to determine the location of important fisheries. The Corps will complete all environmental and economic studies related to the Humboldt Bay site in support of EIS preparation. EPA is responsible for reviewing the information used in preparation of the DEIS and publishing the document. The Corps will assist EPA in responding to any comments received on the DEIS and subsequent site designation work.

Need For Action: The Corps of Engineers, San Francisco District has requested that EPA designate an ODMDS offshore of Humboldt Bay, Humboldt County, California. An EIS is required to provide the necessary information to evaluate disposal alternatives and to designate the preferred ODMDS. If the proposed dredged material from Humboldt Bay meets the criteria for ocean disposal in 40 CFR 225 and 227, then the material may be disposed at the designated site or sites.

Alternatives: The EIS will characterize environmental parameters, assess environmental impacts and evaluate a reasonable range of alternatives to determine whether designation of an ocean disposal site is acceptable. The alternatives include: (1) No Action, (2) Upland Disposal, (3) Historical Ocean Dumping Sites, and (4) Other Ocean Disposal Sites Within the Zone of Siting Feasibility.

Scoping: A Corps sponsored workshop was held on April 19, 1989 with EPA, local fishermen, Federal and state resource agencies, academic experts, and other parties interested in the designation of the ocean disposal site. A scoping meeting for the general public is scheduled on June 28, 1989 from 4:00 to 6:00 p.m. The meeting will be held in the Meeting Room of the Humboldt Bay Harbor, Recreation and Conservation District Office at Woodley Island Marina in Eureka, California. Written comments on this Notice of Intent should be sent to the contact person listed above no later than 45 days after the date of publication.

Estimated Date of Release: The DEIS will be made available about July 1991.

Responsible Official: Daniel W. McGovern, Regional Administrator, Region 9.

Dated: June 12, 1989.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 89-14379 Filed 6-15-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3603-1]

Environmental Impact Statements; Availability

Responsibile Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements; Filed June 5, 1989 Through June 9, 1989; Pursuant to 40 CFR 1506.9.

EIS No. 890148, DSuppl, CDB, CA, Azusa Central Business District Redevelopment Project Area, Parcel A/Site 1, Increased Office and Commercial Space Construction, CDB Grant/Section 108 Loan Guarantee, City of Azusa, Los Angeles County, CA, Due: July 31, 1989, Contact: Robb Steel (818) 334-5125.

EIS No. 890150, FSuppl, FHW, MD, MD-32 Relocation and Upgrade of Related Facilities, MD-108 to Pindell School Road, Funding and 404 Permit, Howard County, MD, Due: July 17, 1989, Contact: Herman Rodrigo (301) 962-4132.

EIS No. 890151, Final, FHW, MD, US 50/Salisbury Bypass Construction, US 50 East of Rockawalkin Road to the US 50 and US 13 Bypass Interchange, Funding and 404 Permit, Wicomico County, MD, Due: July 17, 1989, Contact: Herman Rodrigo (301) 962-4010.

EIS No. 890152, Final, BLM, AZ, San Pedro River Riparian Resource Management Plan, Implementation, San Simon Resource Area, Safford District,

Cochise County, AZ, Due: July 17, 1989, Contact: Vernon Saline (602) 428–4040.

EIS No. 890153, DSuppl, FHW, MA, Central Artery/I–93 and Third Harbor Tunnel/I–90, South Boston Haul Road, Construction, Dorchester Avenue to Congress Street, Funding, 404 Permit and NPDES Permit, City of Boston, Suffolk County, MA, Due: July 31, 1989, Contact: Alexander Almeida (617) 494–2319.

EIS No. 890154, Final, FHW, HI, Alii Highway Construction, Kailue-Kona to Keauhou, Funding, Hawaii County, HI, Due: July 17, 1989, Contact: William Lake (808) 546–5150.

EIS No. 890155, Draft, OSM, AZ, Black Mesa and Kayenta Coal Mines, Mining and Reclamation Operations Permit, Life-of-Mine Mining Plan and 404 Permit, Hopi and Navajo Reservations, Navajo County, AZ, Due: August 18, 1989, Contact: Sarah Bransom (303) 844–2891.

Amended Notices

EIS No. 890078, Draft, NPS, AK, Denali National Park and Preserve, Mining Operations Management Plan, Implementation, AK, Due: August 14, 1989, Contact: Floyd W. Sharrock (907) 257–2616. Published FR 4–14–89—Review period extended.

EIS No. 890079, Draft, NPS, AK, Yukon-Charley Rivers National Preserve, Mining Operations Management Plan, Implementation, AK, Due: August 14, 1989, Contact: Floyd W. Sharrock (907) 257–2616. Published FR 4–14–89—Review period extended.

EIS No. 890080, Draft, NPS, AK, Wrangell-St. Elias National Park and Preserve, Mining Operations Management Plan, Implementation, AK, Due: August 14, 1989, Contact: Floyd W. Sharrock (907) 257–2616. Published FR 4–14–89—Review period extended.

Dated: June 13, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89–14380 Filed 6–15–89; 8:45 am]

BILLING CODE 6560–50–M

[ER-FRL-3603-2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared May 29, 1989 through June 2, 1989 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 1989 (54 FR 15006).

Draft EISs

ERP No.: D–AFS–J61075–WY, Rating EC2, Mountain Meadow Guest Ranch Expansion, Site Development Plan Approval, Special Use Permit Renewal, Medicine Bow National Forest, Albany, County, WY.

Summary: EPA requests additional information regarding geology, hydrology, soil analysis, location and depth of drinking water supplies in respect to the sewage system, and the mushroom Boletus Edulis. Additionally since the preferred alternative has not been selected, all 10 alternatives should be fully analyzed.

ERP No.: D–AFS–L65130–AK, Rating EC2, Big Islands Management Area, Resource Management Plan, Implementation, Hawkins, Hinchinbrook, Montague, Green, Little Green and Wooded Islands and The Needle, Prince Williams Sound, AK.

Summary: EPA's review of the draft EIS has identified effects on anadromous fisheries which may require changes to road construction or application of additional mitigation measures or monitoring.

ERP No.: D–BOP–K81019–CA, Rating EC2, Taft Federal Correctional Institution, Construction and Operation, Kern County, CA.

Summary: EPA expressed concerns regarding the proposed project's potential adverse impacts on wetlands and other special aquatic sites. EPA requested that the final EIS discuss whether any proposed project sites are contaminated with hazardous substances and whether the proposed project's construction or operation would involve hazardous materials.

ERP No.: DA–COE–H36016–IA, Rating LO, West Des Moines and Des Moines Flood Control Project, Authorized Plan Reevaluation, Polk County, IA.

Summary: EPA suggests the planned borrow site ponding areas be designed to function as wetland/water storage areas rather than deepwater ponds.

ERP No.: D–NPS–E40718–GA, Rating EC1, US 27/GA–1/LaFayette Road Relocation, US 27 near County Road–144 on the south and GA–2 at US 27 on the north, Approval and 404 Permit, Walker and Catoosa Counties, GA.

Summary: EPA urges conservation of existing forested areas given the projects potential to increase noise levels. The forested area provides a variety of functions such as noise reduction, wildlife habitat, minimization of impacts on parklands and improvements to visual aesthetics along the highway.

Regulations

ERP No.: R–AFS–A02227–00, 36 CFR Parts 211, 228, and 261; Oil and Gas Resources (54 FR 3326).

Summary: EPA believes that the proposed rules have the potential to effectively protect resources within the National Forest System. Earlier opportunity for public and agency input into the review process for determining the suitability of lands for leasing should be provided. Revisions to the proposed rules regarding surface resource protection and the process for developing surface plans of operation are also needed.

Dated: June 13, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89–14381 Filed 6–15–89; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3602–8]

Risk Assessment Guideline Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: This notice announces a scientific workshop, sponsored by the Environmental Protection Agency (EPA), for analysis and review of issues relating to the use of human evidence under EPA's Guidelines for Carcinogen Risk Assessment (51 FR 33992, September 24, 1986). The meeting will be held at the Georgetown Omni Hotel in Washington, DC.

DATES: The workshop will begin on Monday, June 26 at 8:30 a.m. and end on Tuesday, June 27 at approximately 1:00 p.m. Members of the public may attend as observers.

ADDRESSES: Eastern Research Group, Inc., an EPA contractor, is providing logistical support for the workshop. To atend the workshop as an observer, contact ERG's Workshop "Hotline" at 617–648–7898. Your registration will be verbally confirmed within 24 hours, and written confirmation will follow. For other logistical information contact Ms. Kate Schalk, Eastern Research Group, Inc., 6 Whittemore Street, Arlington, Massachusetts, 02174, Tel. (617) 648–7811/7800 by [five working days from date of notice]. Space is limited.

FOR FURTHER INFORMATION CONTACT: Shirley Thomas, U.S. Environmental Protection Agency, RD–689, 401 M Street SW., Washington DC, 20460, Tel. (202) 475–6743 (FTS: 475–6743).

SUPPLEMENTARY INFORMATION: This workshop is one of several preliminary steps in the current review of EPA's Guidelines for Carcinogen Risk Assessment. Other activities have included a request to the public for information on use of the guidelines (53 FR 32656, 26 August 1988), and a workshop on issues relating to the use of data from animal studies in predicting human cancer risk (53 FR 49920, 12 December 1988). This workshop is described in a recently published report (54 FR 16403, 24 April 1989).

EPA is assembling a panel of scientifically qualified persons to consider issues relating to the use of human data in risk assessment. Workshop panelists will address technical issues such as criteria for evaluating data from human studies and methods for using such data for risk assessment purposes. Panelists will exchange information on the technical basis for risk assessment guidance and the use of this information in possible amendments to the Agency's Guidelines for Carcinogen Risk Assessment. Approximately 18 experts in human epidemiology and related disciplines are expected to participate as panelists.

EPA will use the workshop discussions as part of its information gathering effort to assess the advisability of revising the Agency's Carcinogen Risk Assessment Guidelines. If the Agency proposes any changes in those guidelines, ample opportunity will be provided for public review and submission of written comments.

Dated: June 9, 1989.

Erich Bretthauer,

Acting Assistant Administrator for Research and Development.

[FR Doc. 89-14378 Filed 6-15-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

June 9, 1989.

The Federal Communications Commission has submitted the following information collection requirements to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501-3520).

Copies of the submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. Persons wishing to comment on these information, collections should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785. Copies of these comments should also be sent to the Commission. For further information contact Jerry Cowden, Federal Communications Commission, (202) 632-7513.

OMB Number: 3060-0368
Title: Section 97.521, VEC Question Pools
Action: Extension
Respondents: Individuals or households and non-profit institutions
Frequency of Response: Recordkeeping requirement
Estimated Annual Burden: 3 recordkeepers; 480 hours; 160 hours average burden per recordkeeper
Needs and Uses: Rule is needed to permit Volunteer Examiner Coordinators to maintain amateur examination question pools used to make up amateur radio operator examinations.

OMB Number: 3060-0149
Title: Part 63—Section 214 Application and Supplemental Information Requirements (Sections 63.01-63.601)
Action: Reinstatement
Respondents: Businesses (including small businesses)
Frequency of Response: On occasion and semi-annual reporting
Estimated Annual Burden: 510 responses; 6,120 hours; 12 hours average burden per response
Needs and Uses: Information required by 47 CFR Part 63 is needed to determine if facilities operation or service initiation or discontinuance by existing or new telecommunication common carriers meets public convenience and necessity standard of the Communications Act of 1934, as amended.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-14331 Filed 6-15-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-832-DR]

Major Disaster and Related Determinations; Alaska

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alaska (FEMA-832-DR), dated June 10, 1989, and related determinations.

DATED: June 10, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice

Notice is hereby given that, in a letter dated June 10, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq., Pub. L. 93-288, as amended by Pub. L. 100-707), as follows:

I have determined that the damage in certain areas of the State of Alaska, resulting from flooding beginning on May 1, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288, as amended by Pub. L. 100-707. I, therefore, declare that such a major disaster exists in the State of Alaska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288, as amended by Pub. L. 100-707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Richard A. Buck of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Alaska to have been affected adversely by this declared major disaster:

All political jurisdictions and Alaska native villages along the Yukon and Kuskokwim Rivers and associated tributaries for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Julius W. Becton, Jr.

Director, Federal Emergency Management Agency.

[FR Doc. 89-14374 Filed 6-15-89; 8:45 am]

BILLING CODE 6718-02-M

(FEMA-829-DR)

Amendment to Notice of a Major Disaster Declaration; Louisiana

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA-829-DR), dated May 20, 1989, and related determinations.

DATED: June 12, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3614.

Notice:

The notice of a major disaster for the State of Louisiana dated May 20, 1989, is hereby amended to include Public Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 20, 1989:

The parishes of Beauregard, Bienville, Claiborne, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Vernon, and Winn for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 89-14375 Filed 6-15-89; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-831-DR]

Major Disaster and Related Determinations; Ohio

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA-831-DR), dated June 10, 1989, and related determinations.

DATED: June 10, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice

Notice is hereby given that, in a letter dated June 10, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq ., Pub. L. 93-288, as amended by Pub. L. 100-707), as follows:

I have determined that the damage in certain areas of the State of Ohio, resulting from severe storms and flooding beginning on May 23, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288, as amended by Pub. L. 100-707. I, therefore, declare that such a major disaster exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. You are also authorized to provide Public Assistance in the affected areas, if requested and necessary. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288, as amended by Pub.L. 100-707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Phil Zaferopulos of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Ohio to have been affected adversely by this declared major disaster:

The counties of Butler, Cuyahoga, Geauga, Greene, Lake, Lorain, Mercer, Montgomery, Preble, and Warren for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Julius W. Becton, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 89-14376 Filed 6-15-89; 8:45 am]

BILLING CODE 6718-02-M

(FEMA-828-DR)

Amendment to Notice of a Major Disaster Declaration; Texas

AGENCY: Federal Emergency Management Agency

ACTION: Notice

SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA-828-DR), dated May 19, 1989, and related determinations.

DATED: June 7, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency,Washington, DC 20472 (202) 646-3614.

Notice

Notice is hereby given that the incident period for this disaster is closed effective June 7, 1989.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

George H. Orrell,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc 89-14377 Filed 6-15-89; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington. DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 232-011244

Title: American Transport Line, Ltd./ Topgallant Lines, Inc. Space Charter Agreement

Parties: American Transport Line, Ltd. Topgallant Lines, Inc.

Synopsis: The proposed Agreement would permit the parties to charter space on each other's vessels and to

rationalize sailings between ports in Europe and the United States.

By Order of the Federal Maritime Commission.

Dated: June 12, 1989.

Joseph C. Polking,

Secretary

[FR Doc. 89-14340 Filed 6-15-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

June 9, 1989.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collection of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following report, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within fifteen calendar days of the date of publication in the **Federal Register.**

ADDRESS: Comments, which should refer to the OMB Docket number should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 and 5:15 p.m. except as provided in § 261(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB Desk Officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the request for clearance (SF 83), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

Proposal To Approve Under OMB Delegated Authority the Extension, With Minor Revision, of the Following Report

1. *Report title:* Weekly Report of Foreign Branch Liabilities to, and Custody Holdings for, U.S. Addresses.
Agency form number: FR 2077.
OMB Docket number: 7100-0176.
Frequency: Weekly.
Reporters: Foreign branches of U.S. banks.
Annual reporting hours: 699.
Estimated average time per response: 13 minutes (37 minutes for respondents completing both items, 7 minutes for respondents completing item 1 only).
Number of respondents: 62 (12 respondents completing both items on the form, 50 respondents completing item 1 only).
Small businesses are not affected.

General Description of Report

This information collection is voluntary [12 U.S.C. 248(a)(2)] and is given confidential treatment [5 U.S.C. 552b(4)].

This report collects weekly data from a sample of foreign branches of U.S. banks on certain types of dollar-denominated time deposits and certificates of deposit. These data are essential in calculating the money aggregate M3. The two proposed revisions would (1) increase the minimum dollar levels in two existing reporting criteria and (2) create a third criteria.

Board of Governors of the Federal Reserve System, June 9, 1989 .

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-14338 Filed 6-15-89; 8:45 am]

BILLING CODE 6210-01-M

BMC Bankcorp, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 30, 1989.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *BMC Bankcorp, Inc.*, Benton, Kentucky; to engage *de novo* through its subsidiary, BMC Bankcorp Real Estate and Investments, Inc., Benton, Kentucky, in a limited partnership with Benton Industrial Foundation, a non-profit tax exempt subsidiary of the city of Benton, Kentucky, to engage in community development activities pursuant to § 225.25(b)(6) of the Board's Regulation Y. These activities will be conducted in Marshall County, Kentucky.

Board of Governors of the Federal Reserve System June 12, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-14334 Filed 6-15-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 30, 1989.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *James W. and Marjorie M. Eggers,* Omaha, Nebraska; to acquire 24.07 percent of the voting shares of Midlands Financial Services, Inc., Omaha, Nebraska, and thereby indirectly acquire Nebraska State Bank of Omaha, Omahan, Nebraska.

Board of Governors of the Federal Reserve System, June 12, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-14336 Filed 6-15-89; 8:45 am]

BILLING CODE 6210-01-M

Correction; First Interstate Bank of Fargo, N.A. and Affiliates ESOP

This notice corrects a previous **Federal Register** notice (FR Doc. 89-11164) published at page 20198 of the issue for Wednesday, May 10, 1989.

Under the Federal Reserve Bank of Minneapolis, the entry for First Interstate Bank of Fargo, N.A., and Affiliates ESOP is amended to read as follows:

1. *First Interstate Bank of Fargo, N.A. and Affiliates ESOP,* Fargo, North Dakota; to acquire an additional 10.62 percent of the voting shares of First Interstate of North Dakota, Inc., for a total of 24.23 percent and thereby indirectly acquire First Interstate Bank of Fargo, Fargo, North Dakota.

Comments on this application must be received by June 30, 1989.

Board of Governors of the Federal Reserve System, June 12, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-14339 Filed 6-15-89; 8:45 am]

BILLING CODE 6210-01-M

Fleet/Norstar Financial Group, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 7, 1989.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet/Norstar Financial Group, Inc.,* Providence, Rhode Island; to transfer certain brokerage accounts from Shatkin Financial Services, Inc., Chicago, Illinois, to Norstar Brokerage Corporation, New York, New York, an existing subsidiary of Fleet/Norstar, and thereby continue to engage in securities brokerage activities pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 12, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-14335 Filed 6-15-89; 8:45 am]

BILLING CODE 6210-01-M

Multibank Financial Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 6, 1989.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Multibank Financial Corp.,* Dedham, Massachusetts; to retain ownership of 5.32 percent of the voting shares of Andover Bancorp, Inc., Andover, Massachusetts, and Andover Savings Bank, Andover, Massachusetts; 5.64 percent of the voting shares of The Waltham Corporation, Waltham, Massachusetts, and Waltham Savings Bank, Waltham, Massachusetts; and 6.70 percent of the voting shares of First Woburn Bancorp, Inc., Woburn, Massachusetts, and Woburn Five Cents Savings Bank, Woburn, Massachusetts.

All of the subsidiary banks engage in Massachusetts Savings Bank Life Insurance.

B. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Growth Financial Corporation,* Harding Township, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Growth Bank, Harding Township, New Jersey.

C. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Guaranty Bancshares Corporation,* Shamokin, Pennsylvania; to acquire 40 percent of the voting shares of Guaranty Bank of Princeton, Princeton, New Jersey, a *de novo* bank.

D. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *CB&T Bancshares, Inc.,* Columbus, Georgia; to merge with Vanguard Banks, Inc., Valparaiso, Florida, and thereby indirectly acquire Vanguard Bank and Trust Company, Valparaiso, Florida.

2. *First Clayton Bancshares, Inc.,* Clayton, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First Clayton Bank & Trust Company, Clayton, Georgia, a *de novo* bank.

3. *SouthTrust of Jackson County, Inc.,* Marianna, Florida, and SouthTrust Corporation, Birmingham, Alabama; to merge with Florida Central Banks, Inc., Chipley, Florida, and thereby indirectly acquire Bank of Washington County, Chipley, Florida; and Florida Community Banks, Inc., Bonifay, Florida, and thereby indirectly acquire First Bank of Holmes County, Bonifay, Florida.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Gold Bancshares, Inc.,* Marysville, Kansas; to merge with Commanche Bancshares, Inc., Marysville, Kansas, and thereby indirectly acquire The Peoples State Bank, Coldwater, Kansas; and Oketo Bancshares, Inc., Marysville, Kansas, and thereby indirectly acquire Blue Valley National Bank, Marysville, Kansas, a national bank which sells general insurance in Marysville, a town with a population of less than 5,000. Comments on this application must be received by June 30, 1989.

2. *NBS Holdings, Inc.,* Parker, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Bergen Park National Bank, Evergreen, Colorado, and Douglas County National Bank, Parker, Colorado, both of which engage in the sale of credit-related life and accident and health insurance only.

3. *Shidler Bancshares, Inc.,* Shidler, Oklahoma; to acquire 100 percent of the voting shares of Security Bank and Trust Company of Ponca City, Ponca City, Oklahoma, which engages in the sale of credit-related life and accident and health insurance only. Comments on this application must be received by June 30, 1989.

4. *Wauneta Falls Bancorp, Inc.,* Wauneta, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Wauneta Falls Bank, Wauneta Falls, Nebraska. Comments on this application must be received by June 30, 1989!

F. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Greater Southwest Bancshares, Inc. Employee Stock Ownership Plan and Trust,* Irving, Texas; to become a bank holding company by acquiring 33.74 percent of the voting shares of Greater Southwest Bancshares, Inc., Irving, Texas, and thereby indirectly acquire Bank of the West, Irving, Texas.

Board of Governors of the Federal Reserve System, June 12, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-14337 Filed 6-15-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement No. 935]

Availability of Funds; Environmental Health Education Activities for Educating Physicians and Health Professionals Concerned With Human Exposure of Environmentally Hazardous Substances

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces availability of funds for Cooperative Agreements with State Departments of Health and/or State Departments of Environment to build State capacity for educating health professionals on how to deal with health issues related to non workplace hazardous substances in the environment.

Authority

This program is authorized under section 104(i)(15) and 104(i)(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601 et seq) and Title 31 U.S.C. 6305.

Eligible Applicants

Eligible applicants include the following:

1. The official public health agencies of States, the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands and the Republic of Palau.

2. The State Departments of Health and/or State Departments of Environment currently supporting program activities for the education and training of public or private physicians and other health professionals concerned with human exposure to hazardous substances in the environment.

Competition will be limited to only those entities specified above due to the legislative requirements of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended (42 U.S.C. 9601 et seq). Section 104(i)(15) of CERCLA states:

> The activities of the Administrator of ATSDR described in this subsection. . . . shall be carried out by the Administrator of ATSDR, either directly or through cooperative agreements with States (or political subdivisions thereof) which the Administrator of ATSDR determines are capable of carrying out such activities.

Availability of Funds

A minimum of $200,000 will be available in Fiscal Year 1989 and $200,000 in Fiscal Year 1990 to fund one to eight awards. The awards will range from approximately $25,000 to $35,000 with the average award being approximately $30,000. The awards will begin on or about September 1, 1989, and are usually made for a 12-month budget period within a project period of 1 to 2 years. Continuation awards within the project period are made on the basis of satisfactory progress and availability of funds.

Purpose

The purpose of these awards is to identify and assist State health provider education efforts in developing appropriate educational materials (including short courses) on the medical surveillance, screening, and methods of diagnosis and treatment of injury or disease, related to exposure to

hazardous substances found in the (non workplace) environment.

Program Requirements

To satisfy the above requirement, the following activities will be performed during the project period.

A. Recipient Activities

1. Enhance the development, implementation and evaluation of educational materials or methods to improve the skills and knowledge of health care providers concerning exposure to hazardous substances.

2. Promote the development of promising new educational activities and instructional methods to educate health care providers so as to demonstrate their effectiveness in other settings.

3. Assist in the development of promising new materials and/or methods utilized by the health care providers in communicating and counseling their patients with regard to health risks concerning exposure to hazardous substances.

4. Promote the development of methods or materials to improve the knowledge and skills of health care providers in taking an "environmental exposure history" as an integral part of their patient workup.

5. Promote the demonstration of successful informational resources to furnish health care providers needed information concerning hazardous substances.

B. ATSDR Activities

1. Collaborate with the identified State activity in generalizing the demonstrated effectiveness of the program in other appropriate settings.

2. Collaborate with the identified State activity regarding the best and most important mechanisms to enhance essential skill and knowledge components concerning medical surveillance, screening, treating and preventing injury or disease related to exposure to hazardous substances.

3. Collaborate with the identified State activity in identifying new approaches to health communications for health care practitioners in counseling their patients concerned about the exposure to hazardous substances.

4. Participate in State based workshops, conferences and seminars to exchange current information, opinions, and findings concerning the diagnosis, treatment and prevention of illness or injury associated with exposure to hazardous substances.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. The Applicant's understanding of the need or problem to be addressed and the purpose of this cooperative agreement.

2. The ability to provide the staff, knowledge, financial and other resources required to perform the applicant's responsibilities in this project, and the approach to be used in carrying out those responsibilities.

3. The extent to which the applicant understands the objectives of the project; the steps to be taken in planning and implementing this project, and the respective responsibilities of the applicant, ATSDR and any other entities for carrying out those steps.

4. The proposed schedule for accomplishing each of the activities to be carried out in this project, and a clearly defined method for evaluating the accomplishment.

5. The qualifications and appropriateness of proposed program staff, and time allocated for them to accomplish program activities; the support staff available for the performance of this project; and the facilities, space and equipment available for performance of this project.

6. The proposed plan for administering this project and the name, qualifications, and time allocations of the individual whom the applicant proposes to make responsible for its administration.

7. The estimated cost to the Government of the project is reasonable, a detailed budget is provided which indicates (1) anticipated costs for personnel, travel, communications and postage, equipment, and supplies and (2) the sources of funds to meet those needs.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number assigned to this program is 13.161, Health Programs for Toxic Substances and Disease Registry.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Rev. 3/89) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control/ATSDR, 255 Paces Ferry Road, N.E., Room 300, Mail Stop E–14, Atlanta, Georgia 30305 on or before July 3, 1989. By formal agreement, the CDC Grants Office will act on behalf of and for ATSDR on this matter.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on/or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.a. or b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

Information on application procedures, copies of application forms, and other material may be obtained from Harvey Rowe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Mailstop E14, Atlanta, Georgia 30305, or by calling (404) 842–6797 or FTS 236–6797.

Announcement Number 935, "Environmental Health Education Programs for Training Physicians and Health Professionals Concerned with Human Exposure of Environmental Hazardous Substances" must be referenced in all requests for information pertaining to these projects.

Technical assistance may be obtained from Max Lum, Ed.D., Office of Extramural Program Branch, Agency for Toxic Substances and Disease Registry, (404) 488–4630 or FTS 236–4630.

Dated: June 9, 1989.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 89–14332 Filed 6–15–89; 8:45 am]

BILLING CODE 4160–70–M

Centers for Disease Control

Agency for Toxic Substances and Disease Registry

[Announcement No. 943]

Association of Schools of Public Health

Introduction

The Centers for Disease Control (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) announce the availability of funds in Fiscal Year 1989 for a cooperative agreement with the Association of Schools of Public Health (ASPH), to improve the interaction between public health academicians and public health practitioners.

Authority

This program is authorized under section 301(a) of the Public Health Service Act [42 U.S.C. 241(a)], as amended, and under Section 104(d)(1) and 104(I)(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Program regulations are set forth in 42 CFR Part 52.

Eligible Applicants

Assistance will be provided only to the Association of Schools of Public Health (ASPH) for this project. No other applications will be solicited or will be accepted.

ASPH represents the 24 accredited schools of public health in the United States. These schools represent the primary educational system that trains personnel needed to operate the Nation's public health, disease prevention and health promotion programs. It is critical that the schools of public health and the practitioners of public health in Federal, State and local Governments cooperate and share their experience and expertise to enable the theoretical and practical perspectives of public health to be melded into comprehensive curricula for teaching health promotion, health protection, preventive health service delivery and health education to future public health workers. These interchanges must be developed and coordinated by a single organization to assure consistent approaches to the preparation of public health workers and their performance in controlling today's major health problems. It has long been recognized that the quality of public health personnel plays a critical role in the prevention and control of disease. The ASPH's principal purpose is to promote and improve the education and training of professional public health personnel. ASPH is the only organization that can comprehensively affect the development and implementation of improved curriculums for teaching public health workers in all 24 accredited schools of public health.

Availability of Funds

It is anticipated that approximately $1,000,000 will be available in Fiscal Year 1989 to fund the cooperative agreement beginning September 28, 1989, for a 12-month budget period and a 5-year project period. Continuation awards within the project period are made on the basis of satisfactory progress and availability of funds.

Purpose

The purpose of this cooperative agreement is to assist ASPH in improving the interaction between public health academicians and public health practitioners, and in enhancing the preparation of public health workers.

Program Requirements

The specific Cooperative Activities, Application Content and Evaluation Criteria, and Funding Priorities are set forth in the Request for Application (RFA) Program Announcement.

E.O. 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

CFDA Number

The Catalog of Federal Domestic Assistance number is 13.283.

Application Submission and Deadline

The Association of Schools of Public Health has been notified of the availability of funds for this project and must submit an original and two copies of the application Form PHS–5161–1 (Rev. 3/89) to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305, on or before July 1, 1989.

Where to Obtain Additional Information

If you are interested in obtaining additional information regarding this project, please reference Program Announcement Number 943, entitled "Association of Schools of Public Health," and contact the following:

Business: Harvey Rowe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, MS–E14, Atlanta, Georgia 30305, telephone (404) 842–6575.

Technical: Thomas R. Balderson, Cooperative Agreement Coordinator, Training and Laboratory Program Office, Centers for Disease Control, 1600 Clifton Road, NE., MS–E20, Atlanta, Georgia 30333, telephone (404) 639–1936.

Dated: June 9, 1989.

Walter R. Dowdle,

Acting Director, Centers for Disease Control and Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 89–14333 Filed 6–15–89; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 89F–0185]

Hoechst Celanese Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Hoechst Celanese Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of benzimidazolone (C.I. pigment yellow 180) as a colorant in high-density polyethylene intended for food-contact use.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B4135) has been filed by Hoechst Celanese Corp., 500 Washington St., Conventry, RI 02816, proposing that § 178.3297 *Colorants for polymers* (21 CFR 178.3297) be amended to provide for the safe use of benzimidazolone (C.I. pigment yellow 180) as a colorant in high-density polyethylene intended for food-contact use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's findings of no significant impact and the evidence supporting that finding will be

published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: June 7, 1989

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-14343 Filed 6-15-89; 8:45 am]

BILLING CODE 4160-01-M

[FDA 225-89-2001]

Memorandum of Understanding Between the Food and Drug Administration, Department of Health and Human Services and the Ministry of Economy Development and Reconstruction, Subsecretariat of Fisheries, Republic of Chile

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA, Department of Health and Human Services, and the Ministry of Economy, Development, and Reconstruction, Subsecretariat of Fisheries, Republic of Chile. This MOU affirms the parties' intention to assure that fresh and frozen oysters, clams and mussels exported from Chile to the United States are safe and have been processed and labeled in accordance with the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, the Public Health Service Act, and other relevant statutes.

DATE: The agreement became effective May 18, 1989.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1583.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and memoranda of understanding between FDA and others shall be published in the Federal Register, the agency is publishing notice of this memorandum of understanding.

Dated: June 12, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

Memorandum of Understanding Regarding Cooperation in Ensuring the Safety and Wholesomeness of Fresh and Frozen Oysters, Clams, and Mussels Exported to the United States of America From the Republic of Chile

I. Purpose

The Food and Drug Administration (FDA) of the Department of Health and Human Services, of the United States of America, and the Ministry of Economy, Development, and Reconstruction, Subsecretariat of Fisheries, National Service for Fisheries (SERNAP), Republic of Chile, affirm by this document their intention to cooperate to assure that fresh and frozen oysters, clams, and mussels exported from Chile to the United States are safe and wholesome, and that they have been harvested, shucked, transported, and labeled in accordance with the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, the Public Health Service Act, and other relevant statutes of the United States, the National Shellfish Sanitation Program (NSSP) of the United States, and the Sanitation Program for Molluscan Bivalves of Chile.

A convention (an agreement) noted as Exempt Resolution No. 302 was signed between the Chilean Ministry of Health and the Ministry of Economy, Development, and Reconstruction on March 29, 1988, and describes the responsibilities of these two Chilean agencies and their functions regarding the implementation of the Sanitation Program for Molluscan Bivalves of Chile.

II. Background

The development of the Sanitation Program for Molluscan Bivalves of Chile originated in 1977, with the Government of Chile requesting that the Food and Drug Administration visit Chile to evaluate its program for compliance with the requirements of the National Shellfish Sanitation Program.

The Government of Chile, in collaboration with its fisheries industry, has endeavored since 1977 to meet all administrative and technical requirements of the National Shellfish Sanitation Program, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, the Public Health Service Act, and other related U.S. statutes that concern the export of shellfish to the United States.

Significant accomplishments made by the Government of Chile include: training of Chilean shellfish sanitation personnel both in the United States and Chile, development of legislation for the certification of shellfish for export, and the signature of a convention between the Chilean Ministry of Health and the Ministry of Economy, Development, and Reconstruction that describes the responsibilities of each Ministry in the implementation of the Sanitation Program for Molluscan Bivalves of Chile.

III. Substance of Agreement

A. Definitions

For the purpose of this Memorandum of Understanding, both parties agree to the following definitions:

1. Central file—The location where the shellfish sanitation authority stores and maintains program information, data, and reports.

2. Enforcement Agency—The National Service for Fisheries within the Chilean Ministry of Economy, Development, and Reconstruction is the agency having regulatory authority over the classification, production, harvesting, processing, transport, and export of certified shellfish to the United States under the terms of this memorandum.

3. Lot—A collection of shellfish of no more than one day's harvest, from a single defined growing area, produced under conditions as nearly uniform as possible, placed in primary containers or units of the same size, type, and style, and identified by a common container code or marking.

4. Marine Biotoxins—Natural toxins produced by marine dinoflagellates, such as Gonyaulax catenella, G. tamarensis, and Ptychodiscus brevis (formerly Gymnodinium breve), and concentrated by shellfish during the feeding process.

5. Shellfish—All edible species of molluscan bivalves except scallop, from the Pectinidae family. Only shellfish that are to be offered for import into the United States as fresh or frozen products are covered under this Memorandum of Understanding.

B. Shared Responsibilities

Both parties will: 1. Provide current and relevant information on the following:

a. Methods and procedures for sampling;

b. Methods of analysis;

c. Methods of confirmation;

d. Reference standards and norms;

e. Administrative guidelines and specification standards;

f. Tolerances and nomenclature on sanitary aspects and inspectional procedures;

2. Inform each other on a timely basis of the following:

a. Proposed modification of existing U.S. or Chilean Federal and state regulations;

b. Proposed new U.S. or Chilean Federal regulations

3. Name a liaison officer who will coordinate all of the activities of the program in relation to this Memorandum of Understanding. The liaison officers will be responsible for facilitating exchanges of information and for expeditiously notifying the other party of all matters requiring prompt attention. Each party agrees to notify the other if a new liaison officer is appointed.

4. Use English as the language for the technical documents and information exchanged under this Memorandum of Understanding.

C. Responsibilities of the Government of Chile

1. The Ministry of Economy, Development, and Reconstruction, Subsecretariat of Fisheries, National Service for Fisheries shall have overall responsibility for the coordination and implementation of the Sanitation Program for Molluscan Bivalves of Chile and develop and maintain interagency agreements and protocols with other government enforcement agencies to implement the NSSP controls as necessary. The National Service for Fisheries will be the liaison with the Food and Drug Administration and maintain compliance with the administrative/operational and technical aspects of the NSSP and Sanitation Program for Molluscan Bivalves of Chile.

2. The National Service for Fisheries, as the enforcement agency, shall:

a. Maintain NSSP required legal, administrative, and sanitary controls over shellfish exported by certified Chilean dealers by ensuring that the Chilean Program for Molluscan Bivalves can:

- Classify Molluscan bivalve growing areas based on comprehensive sanitation surveys;
- Prepare sanitation survey reports and maintain survey data in a control file;
- Update survey data annually and periodically review the classification status of each harvest area;
- Approve and supervise harvesting and relaying operations and provide proper labeling and identification of source of shellstock;
- Restrict harvesting of shellstock from unapproved areas and take appropriate enforcement action against violations; and
- Oversee certification laboratories approved to participate in the shellfish sanitation control program.

b. Inspect firms processing fresh or frozen shellfish for export to ensure compliance with NSSP controls.

c. On an annual basis, (1) Certify dealers exporting fresh or frozen shellfish to the U.S., (2) certify that such dealers comply with NSSP requirements, and (3) notify FDA of the name, location, and certification number of those firms on Form FD–3038B, "Shellfish Certification."

d. Cancel the certification of any firm operating out of compliance with the requirements of the NSSP, utilizing shellfish from nonapproved areas, or shipping shellfish that do not conform to the requirements of the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act.

e. Ensure that all containers of each lot of fresh or frozen shellfish certified for export are identified with the shipper's address, certification number, and lot number or code, together with all other information required by the Federal Food, Drug and Cosmetic Act, the Public Health Service Act, and the Fair Packaging and Labeling Act.

f. Ensure that all shipping containers of live and fresh-shucked shellfish exported to the U.S. bear the following instructions on the use and disposal of such shellfish in the form of a "NOTICE TO RECIPIENTS," including:

—Live shellfish shall not be relayed into U.S. waters for any purpose.
—Live shellfish shall not be held in wet holding and storage systems where water could transport undesirable organisms into the environment.
—In order to minimize risk of introducing undesirable or exotic organisms into the environment, waste shell material shall not be discarded into U.S. waters.
—Dead or unacceptable shellfish and shellfish products shall not be discarded into waste treatment or disposal systems whereby improperly treated water or waste could contaminate the marine environment.

g. Provide results of research investigations conducted on live shellfish (tissue and shell material) taken from approved growing areas designated for shellfish harvest for export to the U.S.

h. Upon request from the U.S., provide samples of live shellfish (sample is fifty (50) shellfish) over a 2-year period (quarterly—spring, summer, fall, and winter) for inspection and analysis from each growing area designated for shellfish harvest for export to the U.S.

i. Maintain a central file of program records including but not necessarily limited to sanitation survey reports, inspection reports, labortory evaluation reports, and enforcement actions. These records are to be made available to FDA for review upon request.

j. Provide inspection results, as appropriate, and other program information, including FDA evaluation reports, interpretations, and laboratory quality assurance program information, to Regional Chilean National Service for Fisheries offices and other government agencies that have responsibilities in the Chilean Program for Molluscan Bivalves.

k. Review periodically, but at least annually, the level of conformity to NSSP requirements that is being enforced by National Service for Fisheries and the Institute of Public Health and provide a report of the review to FDA as necessary, or at least annually.

l. Provide FDA with information about current or potential public health problems affecting shellfish intended for export to the United States.

m. Make travel arrangements in Chile for, and conduct joint inspections with, FDA evaluation officers at FDA's request. Meet transportation expenses in Chile of FDA officials making inspections in accordance with this memorandum.

3. The Chilean Ministry of Health, through its Health Services and the Institute of Public Health, is directly responsible for the prohibition of the harvesting of shellfish from areas in response to contamination emergencies and for reopening such prohibited areas after water quality data demonstrates the area meets approved criteria.

4. The Institute of Public Health shall serve as the official laboratory of reference for the certification of all other Chilean laboratories wishing to participate in the shellfish sanitation program and will:

a. Certify that all laboratories participating in the Molluscan Bivalve Program of Chile maintain appropriate infrastructure, technical materials, equipment, and trained personnel to carry out required NSSP sampling and analytical procedures.

b. Periodically evaluate certified laboratories to verify compliance with all NSSP requirements and the maintenance of laboratory quality assurance procedures.

c. Develop and maintain a monitoring program for paralytic shellfish poison in those areas where shellfish are harvested for export to the United States.

d. Maintain a split-sample (cross-sampling) program between designated shellfish laboratories for evaluating uniform laboratory practices.

D. Responsibilities of the FDA

FDA will: 1. Publish the names, location, and certification numbers of firms that have been certified by the Chilean National Service for Fisheries if the Food and Drug Administration has determined that the Chilean Sanitation Program for Molluscan Bivalves is in conformance with the National Shellfish Sanitation Program. This information will appear in the Monthly Interstate Certified Shellfish Shippers List.

2. Train Chilean technical personnel on administrative procedures and classification of shellfish growing areas. Such training will be provided at the request of the Chilean National Service for Fisheries if funds are available for this purpose.

3. Inform the Chilean National Service for Fisheries whenever certified shellfish shipments from Chile are detained by FDA under the authority of the Federal Food, Drug and Cosmetic Act, as amended, or the Public Health Service Act. FDA will supply the following information:

a. Name of the commodity, lot, and certification number;

b. Name and address of the shipper;

c. Reason for the detention;

d. Sampling procedures;

e. Methods of analysis and confirmation;

f. Administrative procedures; and

g. Date and other pertinent information on the shipping label.

4. Make travel arrangements for and pay round trip transportation expenses of the FDA observation team between the United States and Chile. FDA will also pay all per diem of its observation team.

5. Collaborate in the training of the official reference laboratory in procedures for identification of marine contaminants in growing areas (e.g., paralytic shellfish poisoning, pesticides, and heavy metals). Such training will be provided at the request of the Chilean National Service for Fisheries if funds are available for this purpose.

6. Exchange with the Chilean National Service for Fisheries appropriate information concerning questions by U.S. state and local health officials regarding the certification, safety, and wholesomeness of shellfish being offered for entry into the United States from Chile. FDA will, if requested by the Government of Chile, seek to communicate with the state and local authorities in the United States on issues that may adversely affect the importation of Chilean shellfish to the United States.

IV. Participating Parties

A. Ministry of Economy Development and Reconstruction, Subsecretariat of Fisheries, National Service for Fisheries, Teatinos No. 120 Piso 11, Santiago, Chile.

B. Food and Drug Administration, Department of Health and Human Services, 5600 Fishers Lane, Rockville, Md 20857.

V. Liaison Officers

A. For the Government of Chile: Commercial Attache, Embassy of Chile, 1732 Massachusetts Avenue, Washington, DC 20036.

B. For the Food and Drug Administration: Chief, Shellfish Sanitation Branch, (Currently David M. Dressel), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, (202) 485–0149.

VI. Period of Agreement

This agreement becomes effective upon signature by both parties and will continue for a period of ten years. It may be renewed or revised by mutual written consent or revoked by either party upon a thirty day advance written notice to the other.

The Document has been Executed on Behalf of the Parties by Their Duly Authorized Officials.

Approved and Accepted for the Food and Drug Administration of the United States of America.

James S. Benson,

Acting Deputy Commissioner of Food and Drugs.

Date: May 18, 1989.

Approved and Accepted for the Ministry of Economy, Development and Reconstruction of the Republic of Chile.

Octavio Errazuriz,

Ambassador of Chile.

Date: May 18, 1989.

[FR Doc. 89–14342 Filed 6–15–89; 8:45 am]
BILLING CODE 4160–01–M

Health Resources and Services Administration

Program Announcement and Proposed Funding Preferences for Scholarships for the Undergraduate Education of Professional Nurses Grant Program

The Health Resources and Services Administration announces that applications will be accepted for the Fiscal Year 1989 Scholarships for the Undergraduate Education of Professional Nurses Grant Program under the authority of section 843 of the Public Health Service Act, as added by Pub. L. 100–607, and invited comments on the proposed funding preferences.

Approximately $1,600,000 is available in Fiscal Year 1989 for competing awards. This is a new program in FY 1989. It is estimated that 320 scholarships will be made in FY 1989, averaging $5,000 per award. Continuations of scholarship awards will be based on funding availability for FY 1990. The period of fund availability will be for each academic year, and a recipient must meet a statutory service obligation as indicated below.

Purpose

The Scholarships for the Undergraduate Education of Professional Nurses Grant Program is designed to provide financial assistance to individuals who are enrolled or accepted for enrollment as undergraduate nursing students in diploma, associate, or baccalaureate degree programs or in programs of nursing education leading to first degrees in professional nursing and who are in financial need with respect to attending these schools. A scholarship recipient must agree to serve full-time upon graduation as a registered nurse for a period of not less than two years in an Indian Health Service health center, or a Native Hawaiian health center, or a public hospital, or a migrant health center, or a community health center, or a certified nursing facility, or a rural health clinic, or in a health facility determined by the Secretary to have a critical shortage of nurses.

Eligible Grant Applicants

To be eligible for a grant, an applicant must be a public or private nonprofit school which is accredited for the training of professional nurses and is located in a State.

Proposed Funding Preference

It is proposed that for Fiscal Year 1989 only, preference in the award of these scholarship grants will be given to applicants which evidence that they exceed the 3-year average enrollment of underrepresented minority students (i.e., Black, Hispanic, American Indian, Alaskan Native, Native Hawaiian, Asian/Pacific Islander), in undergraduate nursing programs. For the 1985–86 school year underrepresented minorities reflected 11.4 percent of undergraduate nursing students. These population groups continue to be underrepresented in the nursing

profession. Their representation should be increased to ensure equitable opportunities to a career in nursing.

Proposed Future Funding Preference

No funds are proposed for this program in the President's Budget for 1990. However, it is proposed, should appropriations be made, that preference in awarding future grant funds be given to grantees with previous recipients still enrolled, so that recipients may finish their undergraduate nursing education started under this scholarship program. Applicants would need to compete for funds for new recipients.

Interested persons are invited to comment on the proposed funding preferences. Normally, the comment period would be 60 days. However, due to the need to implement any changes, this comment period has been reduced to 30 days. All comments received on or before July 17, 1989 will be considered before final funding preferences are established.

Written comments should be addressed to Director, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–23, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying in the Division of Student Assistance, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Eligible Students

To be eligible for a grant an individual must:

(1) Be enrolled or accepted for enrollment as a full-time nursing student in a program leading to a degree or diploma, which prepares individuals to qualify for licensure to practice as a registered/professional nurse in a State;

(2) Be in financial need with respect to attending such nursing school;

(3) Be a resident of the United States and either a U.S. citizen, a U.S. national, an alien lawfully admitted for permanent residence in the U.S., a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Trust Territory of the Pacific Islands, Republic of Palau, or a citizen of the Republic of the Marshall Islands or the Federated States of Micronesia; and

(4) Sign the contract prescribed by the Secretary setting forth terms and conditions of the scholarship, including an agreement to serve as a full-time registered nurse upon graduation for a period of not less than two years in an Indian Health Service health center, or a Native Hawaiian health center, or a public hospital, or a migrant health center, or a community health center, or a certified nursing facility, or in a rural health clinic, or in a health facility determined by the Secretary to have a critical shortage of nurses.

Preference in the Selection of Scholarship Recipients

In accordance with the statute, the Department proposes to require schools:

(1) To give preference in awarding scholarships to individuals from disadvantaged backgrounds as determined in accordance with criteria prescribed by the Secretary under section 827(a) of the Act which are as follows:

(a) the individual comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a school of nursing; or

(b) the individual comes from a family with an annual income below a level based on low-income thresholds by family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and multiplied by a factor to be determined by the Secretary for adaptation to this program. The Secretary periodically will publish in the **Federal Register** such factor and income levels as adjusted; and

(2) To assure that a scholarship provided for full-time attendance will not, for any year of such attendance, exceed the amount of the tuition and any fees for the year involved; and

(3) To require scholarship applicants to sign a contract.

The following income figures determine what constitutes a low income family for purposes of Scholarships for the Undergraduate Education of Professional Nurses Grant Program for Fiscal Year 1990.

Size of Parents Family [1]	Income Level [2]
1	$7,900
2	10,300
3	12,300
4	15,700
5	18,500
6 or more	20,800

[1] Includes only dependents listed on Federal income tax forms.

[2] Rounded to $100. Adjusted gross income for calendar year 1988.

Appliation Deadline

One grant cycle will be held annually for the Scholarships for the Undergraduate Education of Professional Nurses Grant Program. To receive consideration for Fiscal Year 1989 funds, applications must meet the deadline of July 31, 1989.

Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date; or

(2) *Postmarked on* or before the deadline date and received in time for submission for review. A legible dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications received after the deadline will be returned to the applicant.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, and General Instructions have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060. The supplement for this program is being submitted for review.

Requests for application materials and requests for technical assistance and information should be directed to: Student and Institutional Support Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–34, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–4776.

Completed applications should be returned to the Division of Student Assistance at the above address.

This program is listed at 13.182 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented by 45 CFR Part 100).

Dated: May 22, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89–14341 Filed 6–15–89; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Cancer Institute; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Control Grant Review Committee, National Cancer Institute, on June 28–30, 1989, Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

This meeting will be open to the public on June 28 from 8 p.m. to 8:30

p.m., to review administrative details and other cancer control review issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 28 from approximately 8:30 p.m. to recess; on June 29 from 8 a.m. to recess; and again on June 30 from 8 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, The Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Carolyn Strete, Executive Secretary, Cancer Control Grant Review Committee, National Cancer Institute, Westwood Building, Room 810, National Institutes of Health, Bethesda, Maryland 20892 (301/496–2378) will furnish substantive program information.

Dated: June 9, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–14470 Filed 6–15–89; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on Friday, June 2, 1989.

(Call Reports Clearance Officer on 202–245–2100 for copies of package)

1. Cholesterol, Fat and Fatty Acids Labeling, 21 CFR Part 101–0910–0224—This regulation establishes the requirements for manufacturers in voluntarily placing information concerning cholesterol, fat or fatty acids content in foods on the label or labeling of a food. (21 CFR 101.25 (b) and (c) and 101.9).

Respondents: Businesses or other for-profit, small businesses or organizations;

Burden: 1 hour.

This submission is for the language concerning labeling statements for the cholesterol and fat and fatty acid content of food. Response burden associated with these label requirements is included in 0910–0177 (Nutrition Labeling).

2. Annual Morbidity Reporting Series—0920–0007—Annual summary reports of nationally notifiable diseases are submitted to CDC from all States and U.S. territories. These data summaries provide number of cases of certain diseases by county, age, sex and month of occurrence.

Respondents: State or local governments;

Number of Respondents: 57;

Number of Responses per Respondent: 2.05;

Average Burden per Response: 3.65 hours;

Estimated Annual Burden: 427 hours.

3. Surveillance of Chronic Fatigue Syndrome—NEW—Asurveillance and followup system for chronic fatigue syndrome will be conducted in the cities of Atlanta, Georgia, Grand Rapids, Michigan, Reno, Nevada, and Wichita, Kansas. The purpose of the survey is to establish incidence and prevalence of the syndrome and describe the illness.

Respondents: Individuals or households;

Number of Respondents: 1,120;

Number of Responses per Respondent: 3;

Average Burden per Response: 737 hours;

Estimated Annual Burden: 2,478 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Date: June 12, 1989.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 89–14349 Filed 6–15–89; 8:45 am]

BILLING CODE 4160–17–M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Pub. L. 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on June 9, 1989.

(Call Reports Clearance Officer on (301) 965–4149 for copies of package)

1. Domestic Service Questionnaire—0960–0047—The information collected on the form SSA–7155 is used by the Social Security Administration to determine if the domestic services of an individual performed in the home of a son or daughter are covered employment under the Social Security Act. The respondents are the employers of claimants for benefits whose entitlement depends upon their domestic services employment.

Number of Respondents: 20,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 10,000

2. Request For Reconsideration—Disability Cessation—0960–0349—The information collected on the form SSA–789 is used by the Social Security Administration to schedule hearings and develop additional evidence for individuals who have received an initial or revised determination that their disability ceased, did not exist or is no longer disabling.

Number of Respondents: 34,000
Frequency of Response: 1
Average Burden Per Response: 12 minutes
Estimated Annual Burden: 6,800 hours

3. The SSA Automated Solicitation Mailing List and the SSA Automated Solicitation List for Building Maintenance—0960–XXXX—The information collected on the forms SSA–4123/SSA–4124 is used by the Social Security Administration to maintain interested vendors on an automated solicitation mailing list.

Number of Respondents: 4,000
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 333

4. SSA-Initiated Personal Earnings and Benefit Estimate Statement Questionnaires—New—The information

collected on these forms will be used by the Social Security Administration to ascertain the value of providing personal Social Security information to individuals who have not requested it. The respondents will be non-beneficiaries between the ages of 19 and 64 who are selected to participate in this survey.

Number of Respondents: 12,750
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 2,242 hours
OMB Desk Officer: Justin Kopca.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Date: June 12, 1989.

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 89-14355 Filed 6-15-89; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-89-1982; FR-2644]

Nehemiah Housing Opportunity Grants Program; Fund Availability

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of fund availability.

SUMMARY: Title VI of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) established the Nehemiah Housing Opportunity Grants Program (NHOP). Under NHOP, HUD is authorized to make grants to nonprofit organizations to enable them to provide loans to families purchasing homes that are constructed or substantially rehabilitated in accordance with a HUD-approved program. On May 22, 1989 (54 FR 22248, HUD published a final rule establishing the requirements for NHOP. This notice announces the availability of $20 million in funds appropriated for NHOP in the Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Pub. L. 100-404, approved August 19, 1988). These funds are available for obligation on July 1, 1989. This notice solicits applications for assistance.

DATES: This notice is effective on June 16, 1989. Applications are due August 15, 1989.

FOR FURTHER INFORMATION CONTACT: Morris Carter, Director, Single Family Development Division, Office of Insured Single Family Housing, Department of Housing and Urban Development, Room 9272, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755-6720. Hearing or speech-impaired individuals may call HUD's TDD number (202) 426-0015. (These telephone numbers are not toll-free.) Application packages (requests for grant application) may be obtained at the above address.

A. Background

Title VI of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) established the Nehemiah Housing Opportunity Grants Program (NHOP). Under NHOP, HUD is authorized to make grants to nonprofit organizations to enable them to provide loans to families purchasing homes that are constructed or substantially rehabilitated in accordance with a HUD-approved program. The loans to the family: may not exceed $15,000; bear no interest; are secured by a second mortgage held by the Secretary; and are repayable to the Secretary upon the sale, lease, or transfer of the property. On May 22, 1989 (54 FR 22248), HUD published a final rule establishing the requirements for NHOP. The final rule is effective on July 13, 1989.

In the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Pub. L. 100-404, approved August 19, 1988), $20 million was appropriated for NHOP. These funds are available for obligation on July 1, 1989. This notice announces the availability of the $20 million for NHOP and solicits applications for the use of these funds. The application procedures and filing deadlines are set forth in paragraph B below.

B. Application Procedures

An application package (request for grant application) describing the information that applicants for NHOP assistance must submit will be made available upon the written request of any party made to: Single Family Development Division, Office of Insured Single Family Housing, Department of Housing and Urban Development, Room 9272, 451 Seventh Street SW., Washington, DC 20410. Applications must be submitted to this address on the forms prescribed by HUD and must be hand delivered and received, or postmarked, no later than August 15, 1989.

Following the expiration of the August 15, 1989 deadline, HUD headquarters will review, rate and rank applications consistent with the procedures announced in the final rule. Applicants awarded a NHOP grant will be notified of their selection as soon as practicable following the completion of the selection process.

C. Selection Procedures

In accordance with § 280.200(d) of the final rules, HUD announces that the maximum number of points that may be awarded under each of the ranking criterion are:

1. Contributions of land (§ 280.220(b)(1))—20 points.
2. Other contributions (§ 280.220(b)(2))—15 points. Under this criterion, applicants that will receive non-Federal financial and other contributions under a State-designated enterprise zone program will be awarded additional points. HUD has decided to award an additional two points to such applications. Accordingly, the maximum number of points that may be awarded under this criterion to an applicant that will not receive contributions under a State-designated enterprise zone program is 13 points. The maximum number of points that may be awarded to an applicant that will receive such contributions is 15 points.
3. Cost effectiveness (§ 280.220(b)(3))—15 points.
4. Neighborhood blight (§ 280.220(b)(4))—20 points.
5. Construction cost (§ 280.220(b)(5))—15 points.
6. Local resident involvement (§ 280.220(b)(2))—15 points.

Additionally, HUD intends to use the appropriate quarterly local cost multipliers listed in the Residential Cost Handbook published by Marshall and Swift Publication Company to adjust for construction costs between market areas as required under ranking criteria § 280.220(b) (3) and (5).

D. Other Information

The information collection contained in this NOFA have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0385. Public reporting burden for this collection of information is estimated to include the time for reviewing instructions,

searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided with the final rule published May 22, 1989 (54 FR 22248). Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Room 10276, Washington DC 20410 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National (Environmental Policy Act of 1969. 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours (7:30 a.m. to 5:30 p.m. weekdays) in the Office of the Rules Docket Clerk, Room 10276, at the address listed above.

The Catalog of Federal Domestic Assistance program number is 14.179.

Authority: Sec. 611, Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Date: May 2, 1989.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing Deputy Federal Housing Commissioner.

[FR Doc. 89-14312 Filed 6-15-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

[AA-620-09-4111-12-2410]

Bureau of Land Management

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance office at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau's clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1004-0034), Washington, DC 20503, telephone 202-395-7340.

Title: Oil and Gas Lease Transfers by Assignment or Operating Rights (Sublease).

OMB Approval Number: 1004-0034.

Abstract: Respondents supply information on forms which are submitted by an applicant wishing to assign/transfer an internest in an oil and gas or geothermal lease.

Bureau Form Numbers: 3000-3, 3000-3a.

Frequency: On occasion.

Description of Respondents: Individiuals, small businesses, large corporations.

Estimated Completion Time: ½ hour.

Annual Responses: 60,000.

Annual Burden Hours: 30,000.

Bureau Clearance Officer: (Alternate) Rick Iovaine (202) 653-8853.

Date: May 30, 1989.

George F. Brown,

Deputy Assistant Director, Energy and Mineral Resources/Fluids.

[FR Doc. 89-14352 Filed 6-15-89; 8:45am]

BILLING CODE 4310-84-M

[UT-942-09-4212-19; U-65095]

Public Lands Held in Trust for the Ute Mountain Ute Indian Tribe

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that, pursuant to Pub. L. 100-708 (102 Stat. 4714) dated November 23, 1988, certain lands, as depicted on maps contained in the Ute Mountain Ute Indian Agency Office, Bureau of Indian Affairs, Towaoc, Co. 81334, the Tribal Headquarters of the Ute Mountain Ute Indian Tribe, Towaoc, Co. 81334, the Utah State Office, Bureau of Land Management, 324 South State Street, Salt Lake City, UT 84111, and the Moab District Office, Bureau of Land Management, 82 East Dogwood, Moab, UT. 84532, are held in trust by the United States for the benefit of the Ute Mountain Ute Indian Tribe and are part of the Tribe's reservation.

FOR FURTHER INFORMATION CONTACT: J. Darwin Snell, Utah State Office, Bureau of Land Management, 324 South State Street, Salt Lake City, UT 84111, 801-539-4102.

The public lands are described as follows:

Salt Lake Meridian, Utah

T. 36 S., T. 21 E.
Sec. 7, NE¼SW¼.

The described land aggregate 40 acres in San Juan County.

Robert Lopez,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89-14354 Filed 6-15-89; 8:45 am]

BILLING CODE 4310-DQ-M

[CA-21603]

Realty Action; Exchange of Public and Private Lands, Riverside County, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action; Exchange of Public and Private Lands, CA-21603.

SUMMARY: The following described public land has been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

Legal Description

Riverside County
San Bernardino Meridian, California
Township 6 South, Range 20 East
Section 33: Lots 2, 3, and 4, N½NW¼ and N½S½NW¼*
Containing 203.34 acres, more or less.

In exchange for this land, the United States will acquire the following described non-federal lands in Riverside County from Newport Harbor Development Company, Incorporated:

San Bernardino Meridian, California

Parcel No. 1:
Township 6 South, Range 20 East
Section 32: S½SE¼
Parcel No. 2:
Township 6 South, Range 14 East
Section 16: E½W½, W½SE¼; Excepting all oil, gas, oil shale, phosphate, sodium, gold, silver and all other mineral deposits reserved by the State of California.
Containing 320 acres, more or less.

The purpose of the exchange is to acquire non-federal lands within or adjoining designated Areas of Critical Environmental Concern (ACEC). The ACEC's (Chuckwalla Bench and Chuckwalla Valley Dune Thicket) provide critical habitat for desert tortoise and other sensitive desert

*A final approved survey plat of the selected public land will be prepared by the Cadastral Survey prior to patent issuance. The public and/or private acreage or values will be adjusted based upon the acreage of the selected land determined by final survey.

wildlife. The exchange would create a more logical and efficient land management pattern and would enhance the Bureau of Land Management's goal to acquire private lands within critical wildlife habitat areas. The public interest will be served by completing this exchange.

The values of the lands to be exchanged are approximately equal; full equalization of values will be achieved by payment to the United States by Newport Harbor Development Company, Incorporated of funds in an amount not to exceed 25 percent of the total value of the land to be transferred out of Federal ownership.

The land to be transferred from the United States will be subject to the following reservations:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. Those rights for an existing Federal Aid Highway granted to CALTRANS, by right-of-way grant R–136, pursuant to the Act of August 27, 1958 (23 U.S.C. 107(d)).

3. Those rights for an existing Federal Aid Highway and water drainage area granted to CALTRANS, by right-of-way grant LA–054204, pursuant to the Act of November 9, 1921.

In addition to the above reservations, transfer of the land from the United States to Newport Harbor Development Company will also be subject to the following rights of third parties:

1. Those rights for an existing overhead telephone line right-of-way granted to Southern California Edison (SCE) Company, its successors or assigns, by right-of-way grant CA–16386, pursuant to Title V of the Act of October 21, 1976 (43 U.S.C. 1761–71).

2. Those rights for an existing electric power line right-of-way granted to SCE, its successors, or assigns, by right-of-way CA–19160, pursuant to the Act of February 15, 1901 (31 Stat. 790).

3. Those rights for an existing underground communications line right-of-way granted to the Continental Telephone Company of California, its successors or assigns, by right-of-way CA–20252, pursuant to Title V of the Act of October 21, 1976 (43 U.S.C. 1761–71).

4. Those rights for an existing telephone line, capacitor site, and access road granted to SCE, its successors or assigns, by right-of-way CA–4163, pursuant to Title V of the Act of October 21, 1976 (43 U.S.C. 1761–71).

5. Those rights for an existing underground communications line granted to American Telephone and Telegraph Communication of California, its successors or assigns, by right-of-way grant CA–16385, pursuant to Title V of the Act of October 21, 1976 (43 U.S.C. 1761–71).

6. Those rights for an existing electrical power transmission line granted to SCE, its successors or assigns, by right-of-way grant CA–20241, pursuant to Title V of the Act of October 21, 1976 (43 U.S.C. 1761–71).

7. Those rights for an existing underground oil and gas pipe line granted to the Southern California Gas Company, its successors or assigns, by right-of-way grant LA–0110795, pursuant to the Act of February 25, 1920 (30 U.S.C. 186).

8. Those rights for an existing underground oil and gas pipe line granted to the Southern California Gas Company, it successors or assigns, by right-of-way grant LA–0107395, pursuant Title V of the Act of October 21, 1976 (43 U.S.C. 1761–71).

9. Those rights for an existing road granted to the California Department of Corrections, by right-of-way grant CA–19090, pursuant Title V of the Act of October 21, 1976 (43 U.S.C. 1761–71).

10. Those rights for an existing access road granted to Mr. Spiros Demetrulias, his successors or assigns, by right-of-way grant CA–15527, pursuant Title V of the Act of October 21, 1976 (43 U.S.C. 1761–71).

11. Those rights for an existing underground communications line granted to U.S. Sprint Communications Company, by right-of-way grant CA–18888, pursuant Title V of the Act of October 21, 1976 (43 U.S.C. 1761–71).

12. Those rights of the current grazing lessee, Joe Auza, to graze 5 Animal Unit Months (AUM) of his existing grazing lease, Ford Dry Lake Ephemeral Grazing Allotment (Allotment No. 6044), until July 31, 1991, unless the lessee waives that portion of his grazing lease affected by the proposed exchange. In the event a waiver is not submitted by the lessee, the Newport Harbor Development Company is entitled to receive annual grazing fees from the lessee for that portion of the lease affected by title transfer in an amount not to exceed that which is authorized under the Federal Grazing Fee published in the **Federal Register**.

The offered private land will be acquired subject to the following third party rights and reservations:

Parcel No. 2:

1. An easement in favor of the public over any portion of the herein described property included within public roads.

2. A right-of-way fifteen feet within the boundaries of the herein described property also proving rights appurtenant to every acre therein for water in or on the property located on said Section 16 herein described, as granted to Myer Silverman and Frances M. Silverman, husband and wife, by deed recorded June 23, 1960 as Instrument No. 55882 of Official Records of Riverside County, California.

3. A reservation for the right to drill for and extract such deposits of oil and gas, or gas, and to prospect for, mine, and remove such deposits of other minerals from said lands as may be required therefor, upon compliance with the conditions and subject to the provisions and limitations of Chapter 5, Part I, Division of 6 of the Public Resources Code, and further reserved to the people the absolute right to finish thereon as provided by Section 25 of Article I of the Constitution of the State of California, as reserved in the State of California patent, recorded February 10, 1958 as Instrument No. 9682 of the Official Records of Riverside County, California.

Publication of this notice in the **Federal Register** segregates the public land from the operation of the public land laws and the mining laws, except for mineral leasing. The segregative effect will end upon issuance of patent or two years from the date of publication, whichever occurs first. For further information concerning this exchange, including the environmental assessment and land report, contact Peter A. Kempenich, BLM Palm Springs-South Coast Resource Area Office, 400 South Farrell Drive, Suite B–205, Palm Springs, California 92262.

For a period of 45 days after publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Date: June 13, 1989.

H. W. Riecken,

Acting District Manager.

[FR Doc. 89–14415 Filed 6–15–89; 8:45 am]

BILLING CODE 4310–40–M

Fish and Wildlife Service

Incidental Take Permit Application and Notice of Intent To Prepare an Environmental Impact Statement on the Incidental Take Proposal for the Comanche Trail Road Project, Travis County, TX

AGENCY: Fish and Wildlife Service (FWS), Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that FWS is considering an application submitted by Travis County Public Improvements and Transportation Department (PITD) to take federally listed endangered black-capped vireos (*Vireo atricapillus*). The term "take" is herein used as defined in the Endangered Species Act of 1973, as amended, and implementing regulations. The proposed take would occur under the provisions of Section 10(a) of the Endangered Species Act, and would be incidental to the widening and realignment of Comanche Trail, a county maintained road in northwestern Travis County, Texas. The FWS intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the incidental take application. This notice is being furnished as required by the Endangered Species Act Regulations (50 CFR 17.22) and National Environmental Policy Act Regulations (40 CFR 1501.7). The FWS is soliciting participation in this scoping process and comments on PITD's proposal, including the direct, indirect, and cumulative impacts that implementation of the proposal would have on endangered species and other environmental resources. A public meeting will also be held.

DATES: Written comments should be received on or before July 17, 1989. A public meeting will be held in Travis County, Texas, on Thursday, June 29, 1989.

ADDRESSES: Comments should be addressed to Robert M. Short, Field Supervisor, United States Department of the Interior, Fish and Wildlife Service, 819 Taylor Street, Room 9A33, Fort Worth, Texas 76102. The public meeting on June 29, 1989, will be held at 7:00 pm at Travis County Precinct 2 Road and Bridge Office, 13303 Low Water Crossing Road, Austin, Texas 78732 (1/10 mile from Ranch to Market Road 620 at Mansfield Dam).

FOR FURTHER INFORMATION CONTACT: David A. Tilton, U.S. Fish and Wildlife Service, 819 Taylor Street, Room 9A33, Fort Worth, Texas 76102, telephone 817/334-2961.

SUPPLEMENTARY INFORMATION:

The black-capped vireo was listed as endangered by the FWS in November 1987. Section 9 of the Endangered Species Act of 1973, as amended (ESA), prohibits "taking" federally listed species. Section 10(a) of the ESA allows the FWS to permit incidental take of federally listed species upon approval of an application supported by a Habitat Conservation Plan for the affected species. The Habitat Conservation Plan must ensure that any take does not jeopardize the continued existence of the species. On March 31, 1989, the FWS received a section 10(a) application and supporting documents (*Final Report: Environmental Assessment, Biological Assessment and Habitat Conservation Plan for Black-capped Vireo and Bee Creek Cave Harvestman—Comanche Trail Project (CIP No. 2-016) and Bullick Hollow Road Project (CIP No. 2-020), Travis County, Texas*) from the PITD.

The PITD finds that the Bee Creek Cave Harvestman would not be affected by the proposed projects, and the Bullick Hollow Road Project would not affect the black-capped vireo. However, construction of the proposed Commanche Trail project, which is proposed to be completed in two phases, would require clearing of woody vegetation in black-capped vireo nesting territories. Black-capped vireo nesting territories are established during late March through early September in several areas in western Travis County, and other areas in Texas and Oklahoma. Substantial clearing of woody vegetation and construction activity within documented territories constitute "taking" as defined by the ESA and implementing regulations.

Project Descriptions

The Comanche Trail project is proposed to be completed in two phases. Phase One involves relocating the existing intersection of Comanche Trail and Ranch to Market Road 620 (RM 620) to a point approximately 825 feet to the east. At the new intersection, Comanche Trail would consist of four lanes divided by a raised median, for a total right-of-way width of approximately 120 feet. Phase One also involves widening and realignment of approximately 4,000 feet of the existing roadway from RM 620 to the Oasis Restaurant. North of the intersection, the new road would have a paved surface approximately 58 feet wide and a 90-foot-wide maintained right-of-way. Construction of Phase One of the proposed Comanche Trail project would require clearing of some woody vegetation in five black-capped vireo territories documented during the 1987 and 1988 nesting seasons. The proposed right-of-way would also occur approximately 35 feet west of a sinkhole known to be inhabited by the Bee Creek Cave Harvestman (*Texella reddelli*), a cave-dwelling invertebrate, which was listed as endangered by the FWS in September 1988. Phase Two involves widening, to conform to Travis County roadway standards, from the Oasis Restaurant to Oasis Bluff Drive. Construction of Phase Two would have no direct impact on currently listed endangered or threatened species.

The purpose of the proposed action is to alleviate hazardous conditions at the intersection of existing Comanche Trail with RM 620, and along Comanche Trail to the west. Due partly to the present location of the intersection at the top of a steep grade, visibility is limited and PITD has determined the site is unsuitable for a traffic signal. The hazardous condition results in traffic jams, particularly on summer weekends when traffic loads to and from parks, a residential area, and a restaurant are high.

The PITD has evaluated three alternatives to the proposed project. Alternative #1 would involve realignment to the east requiring a bridge of 1500 feet at a total cost of over ten million dollars. This alternative would also have a direct impact on at least one black-capped vireo territory. Therefore, the PITD has rejected this alternative. Alternative #2 would avoid direct impact to black-capped vireo territories. However, PITD has determined this alternative would be unacceptable because: (a) it would impact prime habitat of the golden-cheeked warbler, a candidate for Federal listing, (b) the road would intersect black-capped vireo habitat "supporting two or more territories", (c) the alignment is scenic property, and (d) the tract is not available without a condemnation suit and potentially high cost. Alternative #3, the "No Action" alternative, is deemed infeasible due to the need for relocating the intersection of Comanche Trail with RM 620.

The Bullick Hollow Road project is also proposed for construction in two phases. Phase One would require some widening and realignment of existing Bullick Hollow Road from RM 620 to Oasis Bluff Drive. Phase Two is presently proposed as an overlay of the existing roadway, from Oasis Bluff Drive to Anderson Mill Road. The total length of the roadway improvements would be approximately 16,000 feet. Recent sightings of black-capped vireos at the intersection of existing Bullick Hollow Road and RM 620 indicate this species may use habitat that would be

impacted, however no established breeding territories have been documented within the proposed right-of-way in recent years.

Proposed Conservation Measures For Endangered Species

The PITD finds that there will be no adverse effects on the Bee Creek Cave Harvestman, provided that protective measures are implemented. The proposed protective measures are: (1) The cave located near the proposed Comanche Trail right-of-way will be acquired or dedicated as a conservation easement, (2) trees and vegetation contributing organic matter to the cave will be protected, (3) a silt fence will be placed around the cave opening until the surrounding area is revegetated, (4) a berm and borrow ditch will be constructed to divert roadway runoff, (5) construction equipment and material storage in the immediate vicinity of the cave will be avoided, and (6) construction workers will be informed of the location of the cave and of precautionary measures.

The PITD's Habitat Conservation Plan provides measures to lessen adverse effects on the black-capped vireo resulting from construction of Phase One of the Comanche Trail Project, and to avoid additional adverse effects from the construction of Comanche Trail and the Bullick Hollow project. The proposed conservation measures are: (1) Schedule construction to coincide with absence of black-capped vireos from nesting territories, (2) commit Travis County to participate in development of a regional habitat conservation plan, (3) band and monitor black-capped vireo, (4) construct and arrange for the maintenance and operation of 12 traps to control brown-headed cowbirds (nest parasites of the black-capped vireo), (5) develop and implement an improved strategy for brown-headed cowbird control, (6) dedicate four permanent management tracts (Comanche Peak Joint Venture—76 acres, Horizon Park—22 acres, the abandoned segment of Comanche Trail—3.3 acres, and the Eanes School Site—7.2 acres), including habitat occupied by six to eight territories in 1987–1988, (7) enhance or restore black-capped vireo habitat in the four management tracts, (8) sponsor a public education program in area neighborhoods, and (9) implement modified park management practices at Hippie Hollow Park, where black-capped vireo presently nest.

To ensure that the full range of issues related to the proposed action are identified and addressed, comments and suggestions are invited from all interested parties. The FWS will consider all comments received in making its determination regarding whether to grant the permit requested by PITD. Environmental review will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), NEPA Regulations (40 CFR 1500–1508), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), ESA Regulations (50 CFR 17), other appropriate Federal regulations, and FWS procedures for compliance with those regulations. Interested persons may comment within 30 days of the date of this publication by submitting written views, arguments or data to the FWS at the above address. Copies of pertinent documents are available for inspection by the public during normal business hours at the FWS address provided above, or at the office of D'Ann Johnson, Assistant County Attorney, Third Floor, the Stokes Building, 314 West 11th Street, Austin, Texas, telephone 512/473–9415.

We estimate the Draft EIS will be made available to the public by October 1, 1989.

Date: June 12, 1989.

R.K. Robinson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 89–14307 Filed 6–15–89; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Martin Luther King, Jr., National Historic Site; Meeting

AGENCY: National Park Service; Martin Luther King, Jr., National Historic Site.

ACTION: Notice of advisory commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr., National Historic Site Advisory Commission will be held at 10:30 a.m. at the following location and date.

DATE: June 28, 1989.

ADDRESS: The Martin Luther King, Jr., Center for Nonviolent Social Change, Inc., Freedom Hall Complex, Room 261, 449 Auburn Avenue NE., Atlanta, Georgia 30312.

FOR FURTHER INFORMATION CONTACT: Mr. Randolph Scott, Superintendent, Martin Luther King, Jr., National Historic Site, 522 Auburn Avenue, NE., Atlanta, Georgia 30312.

SUPPLEMENTARY INFORMATION: The purpose of the Martin Luthern King, Jr., National Historic Site Advisory Commission is to advise the Secretary of the Interior or his designee on matters of planning and administration of the Martin Luther King, Jr., National Historic Site and Preservation District. The members of the Advisory Commission are as follows:

Ms. Portia Scott, Chairperson
Mr. William W. Allison
Mr. Arthur J. Clement
Mr. John Cox
Ms. Barbara Faga
Mrs. Christine King Farris
Mrs. Valena Henderson
Mr. C. Randy Humphrey
Dr. Elizabeth A. Lyon
Rev. Joseph L. Roberts
Mrs. Coretta Scott King, Ex-Officio Member
Director, National Park Service, Ex-Officio Member

The matters to be discussed at this meeting will include the status of park development and interpretive activities.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

W. Thomas Brown,

Acting Regional Director, Southeast Region.

Date: June 6, 1989.

[FR Doc. 89–14298 Filed 6–15–89; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 88–97]

Clinton Dewitt Nutt, D.O., Houston, TX; Hearing

Notice is hereby given that on September 19, 1988, the Drug Enforcement Administration, Department of Justice, issued to Clinton Dewitt Nutt, D.O., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AN0874897, and deny any pending applications.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in

this matter will be held on Thursday, June 15, 1989, commencing at 11:30 a.m., at the Westside Command Center, 3202 S. Dairy Ashford Road, Houston, Texas.

Dated: June 9, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-14395 Filed 6-15-89; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 26, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 26, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC this 30th day of May 1989.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
Accurate Parts Co., Ace Electric Co. (UAW).	Kokomo, IN	5/30/89	5/9/89	22,954	Starter motors.
Atlas Wireline Service (Workers)	Cody, WY	5/30/89	5/14/89	22,955	Oil and gas.
Atlas Wireline Service (Workers)	Casper, WY	5/30/89	5/14/89	22,956	Oil and gas.
Atlas Wireline Service (Workers)	Gilette, WY	5/30/89	5/14/89	22,957	Oil and gas.
Babcock & Wilcox, Co. (USWA)	Beaver Falls, PA	5/30/89	5/8/89	22,958	Seamless tubing.
Bausch & Lomb, Inc. (Workers)	Rochester, NY	5/30/89	5/1/89	22,959	Optical and ophthalmic instruments.
C&A Wallcoverings, Inc. (Workers)	Cheektowaga, NY	5/30/89	5/11/89	22,960	Wallpaper.
Continental Plastic & Chemical, Inc. (Company).	Avenel, NJ	5/30/89	5/12/89	22,961	Vinyl sheeting.
E.W. Bowman, Inc. (USWA)	Union Town, PA	5/30/89	5/9/89	22,962	Glass making machinery.
Economy Color Card (Workers)	Roselle, NJ	5/30/89	5/9/89	22,963	Books.
GTE Products, Corp. U.S. Lighting/Consumer Div. (Company).	Montoursville, PA	5/30/89	5/11/89	22,964	Lighting products.
Gerber Babywear (Workers)	Three Oaks, MI	5/30/89	5/8/89	22,965	Baby bibs and training pants.
Hanna Instruments (Workers)	Woonsocket, RI	5/30/89	5/9/89	22,966	Medical and chemical instruments.
Howard Martin Knitting Mills, Inc. (ILGWU)	Ridgefield, NJ	5/30/89	5/15/89	22,967	Ladies' knit and woven sportswear.
Idea Courier/Servcom (Workers)	Phoenix, AZ	5/30/89	5/10/89	22,968	Terminals (computers).
Institute for Scientific Information (Workers).	Cherry Hill, NJ	5/30/89	5/1/89	22,969	Data entry.
Kolo Cutting Room (ILGWU)	Ridgefield, NJ	5/30/89	5/15/89	22,970	Knits and woven sportswear.
Lumered Corp. (Workers)	Woodbridge, NJ	5/30/89	5/11/89	22,971	Ladies handbags.
M&G Convoy, Inc. (Workers)	New Stanton, PA	5/30/89	5/15/89	22,972	Autos.
Oxford Superconducting Technology, Inc. (Workers).	Carteret, NJ	5/30/89	5/4/89	22,973	Superconducting magnets and wire.
Pancratz Co. (HVAC)	Casper, WY	5/30/89	5/9/89	22,974	Installation of roofs, heating, air condition etc.
Pearson-Sibert Oil Co. of Texas (Workers)	Ira, TX	5/30/89	5/3/89	22,975	Oil and gas.
Raytron-d.b.a. C.E.F. Co. (Workers)	West New York, NJ	5/30/89	5/12/89	22,976	Fuses.
Sally Gee, Inc. (ILGWU)	Ridgefield, NJ	5/30/89	5/15/89	22,977	Knit and woven sportswear.
Tech-Services/TXX Operations (Workers)	Breckenridge, TX	5/30/89	5/10/89	22,978	Oil and gas.
Textron, Inc. Randall Div. (Workers)	Cambridge, OH	5/30/89	5/9/89	22,979	Auto parts.
Therma-TRU (Workers)	Van Buren, AR	5/30/89	5/10/89	22,980	Door lights.
Trico Industries, Inc. (Workers)	Sidney, MT	5/30/89	5/12/89	22,981	Oil and gas.
Wabash Datatech Inc. (Company)	Paoli, IN	5/30/89	5/16/89	22,982	Microdisks and floppy diskettes.

[FR Doc. 89-14359 Filed 6-15-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21-179; Livingston, TX et al.]

Exploration Employment Service Inc.

In the matter of Exploration Employment Service, Inc.
TA-W-21,179; Livingston, Texas
TA-W-21,179A; Bay City, Michigan
TA-W-21,179B; All Other Locations in Michigan
TA-W-21,179C; All Other Locations in Texas
TA-W-21,179D; All Locations in California
TA-W-21,179E; All Locations in Colorado
TA-W-21,179F; All Locations in Arkansas
TA-W-21,179G; All Locations in Louisiana
TA-W-21,179H; All Locations in Mississippi
TA-W-21,179I; All Locations in Montana
TA-W-21,179J; All Locations in New Mexico
TA-W-21,179K; All Locations in North Carolina
TA-W-21,179L; All Locations in Nevada
TA-W-21,179M; All Locations in Oklahoma
TA-W-21,179N; All Locations in Utah
TA-W-21,179O; All Locations in Washington
TA-W-21,179P; All Locations in Wyoming
TA-W-21,179Q; All Locations in Idaho
TA-W-21,179R; All Locations in Florida
TA-W-21,179S; All Locations in Kentucky

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 29, 1988 applicable to all workers of Exploration Employment Service, Inc., Livingston, Texas. The Certification Notice was amended on March 16, 1989 to include all workers of the subject firm in Bay City, Michigan.

Based on new information from the company, additional workers were separated from Exploration Employment Service, Inc., in the States of California, Colorado, Arkansas, Louisiana, Mississippi, Montana, New Mexico, North Carolina, Nevada, Oklahoma, Utah, Washington, Wyoming, Idaho, Florida and Kentucky. The notice, therefore is amended by including all locations of Exploration Employment Service, Inc., in the listed locations.

The amended notice applicable to TA-W-21,179 is hereby issued as follows:

All workers of Exploration Employment Service, Inc., Livingston, Texas; Bay City, Michigan; and in all other locations in Texas and Michigan; and in all locations of California; Colorado; Arkansas; Louisiana; Mississippi; Montana; New Mexico; North Carolina; Nevada; Oklahoma; Utah; Washington; Wyoming; Idaho; Florida and Kentucky who became totally or partially separated from employment on or after October 1, 1985 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 5th day of June 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-14357 Filed 6-15-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,441]

Jet Oilfield Equipment Rental & Service Inc., Dickinson, North Dakota; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 18, 1989 applicable to all workers of Jet Oilfield Equipment Rental & Service Inc., Dickinson, North Dakota.

Based on new information from the company, additional workers were separated from Jet Oilfield Equipment Rental & Service Inc., Dickinson, North Dakota in October 1985. The subject firm's revenues declined substantially in the fourth quarter of 1985 compared to the same quarter in 1984. The notice, therefore is amended by including a new impact date for workers of Jet Oilfield Equipment Rental & Service, Inc., Dickinson, North Dakota.

The amended notice applicable to TA-W-21,441 is hereby issued as follows:

All workers of Jet Oilfield Equipment Rental & Service Incorporated, Dickinson, North Dakota who became totally or partially separated from employment on or after October 1, 1985 are eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 5th day of June 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-14358 Filed 6-15-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,052]

Ohio L & M Co., Inc., Reno, Ohio; Determinations on Reconsideration

Pursuant to a remand by the U.S. Court of International Trade, dated May 3, 1989, in *Former Employees of Ohio L & M Co., Inc.*, v. *Secretary of Labor* (USCIT 89-02-00085) the Department makes the following determination on reconsideration for workers of Ohio L & M, Reno, Ohio separated from employment after December 31, 1987.

The Department's certification of workers at Ohio L & M Inc., Reno, Ohio was for the period from October 1, 1985 to December 31, 1987. This certification was based on the fact that 80 percent of L & M's drilling operations were for unaffiliated oil and gas firms. That termination date in the subject certification, TA-W-22,052, reflected the fact that after that date Ohio L & M ceased drilling for independent firms and was acquired by Alliance Petroleum. Thus, Ohio L & M became part of an integrated oil and gas operation and as such is not eligible for the retroactive provisions of section 1421(a)(1)(B) of the Omnibus Trade and Competitiveness Act.

The Department requested the remand to include additional findings to determine whether the increased import criterion was met during the period when the subject firm was part of an integrated operation.

The Department surveyed the customers of Ohio L & M in order to determine whether imports "contributed importantly" to the worker separations. The survey on reconsideration shows that the subject firm's gas customers, which accounted for over 100 percent of the firm's gas sales decline in 1988, did not import gas or oil in 1987 or 1988. The survey also showed that none of the subject firm's oil customers imported oil or gas in 1987 or 1988. Accordingly, there is no basis for certifying workers in the period after December 31, 1987 because the "contributed importantly" test was not met. Further, other findings show that Ohio L & M actually had an increase of oil sales and production in 1988.

Other findings on reconsideration show that in mid-1988 the parent company of Ohio L & M decided to consolidate the administrative functions of the entire company and relocate the corporate headquarters to Canton, Ohio. As a result of this decision, Ohio L & M's office in Marietta was closed. A management decision to transfer the activities of its workers to another domestic location would not form a basis for certification.

Conclusion

After reconsideration, I affirm the Department's termination date of December 31, 1987 in the notice of certification of eligibility to apply for adjustment assistance to workers and former workers of Ohio L & M Inc., Reno, Ohio and conclude that all workers of Ohio L & M, Reno, Ohio who were laid off after December 31, 1987 are

denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 2nd day of June 1989.

Barbara Ann Farmer,

Director, Office of Program Management, UIS.

[FR Doc. 89-14360 Filed 6-15-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,029 A Corpus Christi, TX et al.]

Schlumberger Well Services, Coastal West Division; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Schlumberger Well Services, Coastal West Division, TA-W-21,029 Headquartered in Corpus Christi and Operating in the Following Districts

TA-W-21,029A	Corpus Christi, Texas
TA-W-21,029B	Alice, Texas
TA-W-21,029C	Brenham, Texas
TA-W-21,029D	Edinburg, Texas
TA-W-21,029E	Liberty, Texas
TA-W-21,029F	Laredo, Texas
TA-W-21,029G	Pleasanton,Texas
TA-W-21,029H	Victoria, Texas
TA-W-21,029I	Wharton, Texas

Schlumberger Offshore Services

TA-W-21,138	Corpus Christi, Texas
TA-W-21,138A	All Other Locations in Texas
TA-W-21,138B	All Locations in Louisiana
TA-W-21,138C	All Locations in Mississippi
TA-W-21,138D	All Locations in Alabama
TA-W-21,138E	All Locations in Florida

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 18, 1988 applicable to all workers of Schlumberger Well Services and Schlumberger Offshore Services both of Corpus Christi, Texas. The Certification Notice was amended on April 27, 1989 to include all workers of Schlumberger Well Services in Alice, Texas; Brenham, Texas; Edinburg, Texas; Liberty, Texas; Laredoa, Texas; Pleasanton, Texas, Victoria, Texas and Wharton, Texas.

Based on new information from the company, additional workers were separated from Schlumberger Offshore Services operating at various locations in Texas, Louisiana, Mississippi, Alabama and Florida. The notice, therefore is amended by including all locations of Schlumberger Offshore Services in Texas, Louisiana, Mississippi, Alabama and Florida.

The amended notice applicable to TA-W-21,029 and TA-W-21,138 is hereby issued as follows:

All workers of Schlumberger Well Services' Coastal West Division headquartered in Corpus Christi, Texas and operating in the following district offices in Texas: Corpus Christi, Alice, Brenham, Edinburg, Liberty, Laredo, Plesanton, Victoria and Wharton and Schlumberger Offshore Services in Corpus Christi, Texas and in all other locations of Texas and in all locations of Louisiana, Mississippi, Alabama and Florida who became totally or partially separated from employment on or after October 1, 1985 and before July 1, 1988 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 5th day of June 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-14356 Filed 6-15-89; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3504, Washington, DC 20210.

Corrections to General Wage Determination Decisions

Pursuant to the provisions of the Regulations set forth in Title 29 of the Code of Federal Regulations, Part 1, section 1.6(d), the Administrator of the Wage and Hour Division may correct any wage determination that contains clerical errors.

Corrections being issued in the Government Printing Office document entitled "General Wage Determinations

Issued Under the Davis-Bacon and Related Acts" are indicated by Volume and are included immediately following the transmittal sheet(s) for the appropriate Volume(s).

Volume II

Wage Decision No. MI88–2, Modifications 2 through 5
Wage Decision No. MI89–2, through Modification 4

Pursuant to the Regulations, 29 CFR Part 1, section 1.6(d), such corrections shall be included in any bid specifications containing the wage determinations, or in any on-going contracts containing the wage determinations in question, retroactively to the start of construction.

New General Wage Determination Decisions

The numbers of the decisions being added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume I

Virginia:
VA89–19 ..... pp. 1178a–1178b
VA89–25 ..... pp. 1188a–1188d
VA89–26 ..... pp. 1188e–1188f
VA89–27 ..... pp. 1188g–1188h
VA89–28 ..... pp. 1188i–1188j
VA89–29 ..... pp. 1188k–1188l
VA89–30 ..... pp. 1188m–1188n
VA89–31 ..... pp. 1188o–1188p
VA89–32 ..... pp. 1188q–1188r
VA89–33 ..... pp. 1188s–1188t
VA89–34 ..... pp. 1188u–1188v
VA89–35 ..... pp. 1188w–1188z
VA89–36 ..... pp. 1188aa–1188bb
VA89–37 ..... pp. 1188cc–1188dd
VA89–38 ..... pp. 1188ee–1188ff
VA89–39 ..... pp. 1188gg–1188hh
VA89–40 ..... pp. 1188ii–1188jj

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Kentucky:
KY89–2 (Jan. 6, 1989) .... p. 284
New York:
NY89–11 (Jan. 6, 1989) .. p. 782
NY89–12 (Jan. 6, 1989) .. p. 790
NY89–13 (Jan. 6, 1989) .. pp. 800, 803
NY89–14 (Jan. 6, 1989) .. p. 808
NY89–15 (Jan. 6, 1989) .. p. 812
NY89–17 (Jan. 6, 1989) .. p. 819
Pennsylvania:
PA89–4 (Jan. 6, 1989) .... pp. 871–872
PA89–9 (Jan. 6, 1989) .... pp. 926–928
PA89–10 (Jan. 6, 1989) .. pp. 934–935
PA89–12 (Jan. 6, 1989) .. pp. 942–943
PA89–14 (Jan. 6, 1989) .. pp. 950–951
PA89–17 (Jan. 6, 1989) .. pp. 964–968
PA89–18 (Jan. 6, 1989) .. pp. 970–972
PA89–21 (Jan. 6, 1989) .. pp. 990–991
PA89–23 (Jan 6, 1989) ... pp. 1006–1008
PA89–24 (Jan. 6, 1989) .. pp. 1012–1013

Volume II

Arkansas:
AR89–3 (Jan. 6, 1989) .... p. 10
AR89–5 (Jan. 6, 1989) .... p. 14
Michigan, MI89–2 (Jan. 6, 1989). p. 448
Missouri, MO89–9 (Jan. 6, 1989). pp. 694–700
Nebraska, NE89–3 (Jan. 6, 1989). p. 724

Volume III

Alaska, AK89–1 (Jan. 6, 1989). p. 3
California, CA89–4 (Jan. 6, 1989). p. 81

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 9th day of June, 1989.

Robert V. Setera,

Acting Director, Division of Wage Determinations.

[FR Doc. 14123 Filed 6–15–89; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

[Docket No. M–89–79–C]

Amax Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Amax Coal Company, P.O. Box 3005, Gillette, Wyoming 82717–3005 has filed a petition to modify the application of 30 CFR 77.216–3(a) (water, sediment, or slurry impoundments and impounding structures; inspection requirements; correction of hazards; program requirements) to its Eagle Butte Mine (I.D. No. 48–01078) located in Campbell County, Wyoming for South Revlon Reservoir (I.D. No. 1211–WY–09–01078–02), East Revlon Reservoir (I.D. No. 1211–WY–09–01078–03), Sediment EB109 Reservoir (I.D. No. 1211–WY–09–01078–04), and for Diversion Reservoir (I.D. No. 1211–WY–09–01078–05). The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all water, sediment, or slurry impoundments be examined by a qualified person designated by the person owning, operating or controlling the impounding structure at intervals not exceeding seven days for appearances of structural weakness and other hazardous conditions.

2. As an alternate method, petitioner proposes to inspect the reservoirs on a quarterly basis when they are dry and to inspect the reservoirs on a weekly basis when they retain one acre-foot or more of water. The reservoirs also would be immediately inspected after any measurable snow melt or rainfall.

3. In support of this request, petitioner states that the reservoirs have not shown "appearances of structural weakness and other hazardous conditions."

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 17, 1989. Copies of the petition are available for inspection at that address.

Date: June 8, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-14363 Filed 6-15-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-80-C]

Amax Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Amax Coal Company, 251 North Illinois Street, P.O. Box 967, Indianapolis, Indiana 46206-0967 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Wabash Mine (I.D. No. 11-00877) located in Wabash County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located inby the last open crosscut and be kept at least 150 feet from pillar workings.

2. Petitioner states that the recent trend in longwall mine design indicates that longwall mining systems will increase in width. This increase in width will require additional horsepower to power the longwall system. In order to supply power to such a system from a power source limited to 1,000 volts, the following problems arise:

(a) The ampacity requirements at 1,000 volts are such that very large and heavy cables are required. The large and heavy cables cause congested work space and handling problems that can result in accidents associated with sprains and strains;

(b) Poor voltage regulation can result in motor overheating and lack of torque applied to the face conveyor; and

(c) At 1,000 volts, the interrupting limits of the available circuit breakers are approached resulting in a diminished safety factor.

3. As an alternate method, petitioner proposed to use 4,200 or 2,400 volts to supply power to high-voltage equipment and associated power cables at the longwall face with specific conditions as outlined in the petition.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 17, 1989.

Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: June 8, 1989.

[FR Doc. 89-14364 Filed 6-15-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-89-C]

Ashley Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Ashley Coal Company, Route 1, Box 297, Gray, Kentucky 40734 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 1 (I.D. No. 15-16071) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on electric face cutting equipment, continuous mining machines, longwall face equipment and loading machines. The monitor is required to be properly maintained and frequently tested.

2. No methane has been detected in the mine.

3. The three-wheel tractors are permissible DC-powered machines, without hydraulics. Approximately 30-40% of the coal is hand loaded into a drag-type bucket. Approximately 20% of the time that the tractor is in use, it is used as a mantrip and supply vehicle.

4. As an alternate method, petitioner proposes to use handheld continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors. In further support of this request, petitioner states that:

(a) Each three-wheel tractor would be equipped with a handheld continuous monitoring methane and oxygen detector and all persons would be trained in the use of the detector;

(b) Prior to allowing the coal loading tractor in the face area, a gas test would be performed to determine the methane concentration in the atmosphere. When the elapsed time between trips does not exceed 20 minutes, the air quality would be monitored continuously after each trip. This would provide continuous monitoring of the mine atmosphere for methane to assure the detection of any methane buildup between trips;

(c) If one percent methane is detected, the operator would manually deenergize the battery tractor immediately. Production would cease and would not resume until the methane level is lower than one percent;

(d) A spare continuous monitor would be available to assure that all coal hauling tractors would be equipped with a continuous monitor;

(e) Each monitor would be removed from the mine at the end of the shift, and would be inspected and charged by a qualified person. The monitor would also be calibrated monthly; and

(f) No alterations or modifications would be made in addition to the manufacturer's specification.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 17, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: June 8, 1989.

[FR Doc. 89-14365 Filed 6-15-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-86-C]

H.L.&W. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

H.L.&W. Coal Company, 14 Maple Street, Pine Grove, Pennsylvania 17963 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its No. 2 Slope (I.D. No. 36-07269) located in Schuykill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. A petition concerns the requirement that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the

last open crosscut in any pair or set of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic fee a minute. The minimum quantity is required to be 3,000 cubic feet a minute.

2. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine. Ignition, explosion, and mine fire history are nonexistent for the mine. There is no history of harmful quantities of carbon monoxide and other noxious or poisonous gases.

3. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

4. Requiring extremely high velocities in small cross-sectional airways and manways in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As an alternate method, petitioner proposes that:

(a) The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

(b) The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute;

(c) The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

All comments must be postmarked or received in that office on or before July 17, 1989. Copies of the petition are available for inspection at that address.

Dated: June 8, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-14366 Filed 6-5-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-83-C]

J & B Coal Co., Inc.; Petition for Modification of Application of Mandator Safety Standard

J & B Coal Company, Inc., P.O. Box 400, Tracy City, Tennessee 37387 has filed a petition to modify the application of 30 CFR 75.902 (low- and medium-voltage ground check monitor circuits) to its No. 41 Mine (I.D. No. 40-02875) located in Sequatchie County Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that low- and medium-voltage resistance grounded systems include a fail-safe ground check circuit to assure continuity. The ground check will cause the circuit breaker to open when either the ground or pilot check wire is broken.

2. As an alternate method, petitioner proposes to install a bare (non-insulated) conductor as a safety ground conductor with specific conditions and equipment as outlined in the petition.

3. The operator would instruct and train all qualified personnel, prior to the assignment of duties, as to the proper method of installing and maintaining the alternative grounding system within 30 days after approval and at six month intervals. Employees who are absent during these periods would be trained within five working days after returning to work.

4. A permanent record of the name of each employee and the dates when each received initial training and reinstruction would be available for inspection by MSHA personnel.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 17, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: June 7, 1989.

[FR Doc. 89-14367 Filed 6-15-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-88-C]

Roblee Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Roblee Coal Company, P.O. Box 2198, Buckhannon, West Virginia 26201 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Tallmans Run No. 1 Mine (I.D. No. 46-07407) located in Barbour County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a locked padlock be used to secure battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded metal locking device in lieu of padlocks. The spring-loaded device would be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and would be attached to prevent accidental loss. In addition, the fabricated metal brackets would be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. The spring-loaded metal locking devices would be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification would be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July

17, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: June 9, 1989.

[FR Doc. 89-14368 Filed 6-15-89; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

[Docket No. NRTL-2-88]

Dash, Straus and Goodhue, Inc.; Recognition as a Nationally, Recognized Testing Laboratory

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of recognition as a Nationally Recognized Testing Laboratory.

SUMMARY: This notice announces the Agency's final decision on the Dash, Straus and Goodhue, Inc., application for recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Room N3653, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

Notice is hereby given that Dash, Straus and Goodhue, Inc., which made application for recognition pursuant to 29 CFR 1910.7, has been recognized as a Nationally Recognized Testing Laboratory for the equipment or materials listed below.

The address of the laboratory covered by this recognition is: Dash, Straus and Goodhue, Inc., 593 Massachusetts Avenue, Boxborough, Masaschusetts 01719.

Background

Dash, Straus and Goodhue, Inc., was formed in 1980 initially for the purpose of undertaking tests to determine equipment compliance with Federal Communications Commission (FCC) regulations. In this effort, the Company succeeded business activities begun by Dash, Straus Associates in 1977.

The Product Safety Division of Dash, Straus and Goodhue, Inc. was formed in January 1986 for purposes of providing its client base with services designed to support its client's requirements for Underwriters' laboratories, Inc. (UL), Canadian Standards Association (CSA), and Technicher Uberwachungs-Verein (TUV) electrical safety listing certification and licensing.

The Company is listed by the Federal Communications Commission and accredited by the U.S. Department of Commerce, and the National Instiutute of Standards and Technology (NIST), formerly the National Bureau of Standards, under the National Voluntary Laboratory Accreditation Program (NVLAP). The applicant is an active member of the American National Standards Institute (ANSI), the Electronic Industries Association (EIA), and the National Fire Protection Association (NFPA).

Dash, Straus and Goodhue, Inc. (DS&G) applied to OSHA for recognition as a Nationally Recognized Testing Laboratory in April 1988. The application was susbsequently revised and additional data provided as requested. An on-site evaluation was conducted (Ex. 2B(1)) and the results were discussed with the applicant who responded with appropriate corrective actions and clarifications to recommendations made as a result of the survey (Ex. 2B(2)). A final on-site review report, consisting of the on-site evaluation of DS&G's testing facility and administrative and technical practices and the corrective actions taken by DS&G in response to this evaluation (Ex. 2B), and the OSHA staff recommendation, was subsequently forwarded to the Assistant Secretary for a preliminary finding on the application. A notice of DS&G's application together with a positive preliminary finding was published in the **Federal Register** on December 16, 1988 (53 FR 50603-04). Interested parties were invited to submit comments.

There were seven responses to the **Federal Register** notice of the DS&G application and preliminary finding (Docket No. NRTL-2-88). Exhibits 3-1 through 3-6 attested to the credibility of the applicant, agreed with the positive preliminary finding, and recommended recognition as a nationally recognized testing laboratory. The other comment, Exhibit 3-7, will be discussed more fully below.

The Occupational Safety and Health Administration has evaluated the record in relation to the regulations set out in 29 CFR 1910.7 and makes the folowing findings:

Capability

Section 1910.7(b)(1) states that for each specified item of equipment or material to be listed, labeled or accepted, the testing laboratory must have the capability (including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality control programs) to perform appropriate testing.

The on-site review report indicates that DS&G does have testing equipment, facilities, and personnel appropriate for the areas of recognition it seeks and its present workload. The laboratory has more than 30 pieces of identified test equipment is uses to perform the testing required by the four standards it will use. The test standards to be used identify the necessary parameters which are specified in the standard; DS&G's equipment can measure these parameters specified in the standard. It maintains an inventory list of test equipment which includes the type of equipment, manufacturer, model and serial numbers, and calibration type.

One respondent expressed concern that certain necessary equipment may not be owned and available at the site (Ex. 3-7, p. 4).

DS&G has demonstrated that it has all equipment needed to test the products for which it seeks recognition under the test standards it intends to use. Therefore, at the present time, DS&G has no need to lease equipment.

The Product Safety Division, which is located at the Boxborough, Massachusetts address of the applicant, consists of 20 employees, as follows:

1—President
1—Vice President of Sales/Marketing
1—Vice President for Legal/ Administrative
1—Vice President for Engineering
8—Clerical/Administrative
6—Engineers
2—Technicians

DS&G has submitted copies of the job responsibilities and qualifications for each of the technical positions listed above and the employees, in OSHA's opinion, appear to be qualified by training or experience for performing testing in the areas for which DS&G seeks recognition.

DS&G leases 7,000 square feet of floor space in a 2-story commercial/retail building. Product testing is conducted within a 640 square foot room. Visitor entrance to the facility is monitored by laboratory personnel occupying the area during working hours. The facility also has security alarm and fire sprinkler systems. The physical facilities appear to be adequate for the volume and type of testing for which DS&G has requested recognition.

One respondent (Ex. 3–7, p. 4) questioned the ability of DS&G to accomplish the work associated with the testing and listing services involving the indicated product catagories alleging that it is "a very small organization with limited facility, test equipment, and staff resources".

The on-site review has demonstrated to OSHA's satisfaction that DS&G has adequate facilities, personnel, and test equipment to accomplish the services required for its present workload in the applied-for product categories. It is DS&G's intention to continuously maintain adequate facilities (including personnel and equipment) to deal with their workload and they will expand their facilities as necessary if the workload significantly increases. OSHA will, of course, continue to monitor the operation of the laboratory as part of its oversight function. Any expansion of product catagories would necessitate the presentation of a formal application to OSHA. With regard to a commentators inference (Ex. 3–7, p. 5) that DS&G will use contract or part-time employees in its follow-up program, DS&G has stated that it has no plans to employ any members of either group.

The on-site review report revealed that DS&G has a comprehensive calibration program for its test equipment which was up-graded subsequent to the on-site review report (see Corrective Action Report (Ex. 2B(2)). Although outside vendor calibration services are used, the Quality Assurance Manager retains the responsibility for the identification, scheduling and shipping of this equipment. There is a written equipment calibration program which includes periodic calibration, labels to indicate calibration status, and records of calibration, repairs and maintenance of test equipment. A computer data base tracks the calibration status of all test equipment which needs periodic calibration.

Another respondent (Ex. 3–7, p. 5) viewed the applicant "suggesting remedies" to a client as a conflict of interest and a "significant and important deficiency". The commentator felt that such practice indicated the applicant's "greater propensity for consultation than testing".

While the extent of consultation provided might, in some cases, impede a laboratory's objectivity and even its independence, OSHA does not view DS&G's present practice of dialogue with clients as a conflict of interest. DS&G appears to offer the same service as Underwriters Laboratories Inc. That is, offering an explanation of the standards and assisting its client in arriving at a solution that will meet the requirements of the standards. It is left up to the client, however, to implement such a solution.

OSHA does agree with the commentator in theory, at least, that the standard does not contemplate a situation where a laboratory would be evaluating its own design. However, whether a given laboratory's practice is acceptable under 29 CFR 1910.7 is a question of fact tied to the particular circumstances of a given case. OSHA reserves the right to revisit this issue in the future should DS&G's practice in this area change significantly.

DS&G test engineers utilize written test procedures (guides) to describe and evaluate the construction of a sample of the product submitted for testing. These procedures are indexed to specific sections of the standards. The procedures are detailed in the on-site review report. See the On-Site Evaluation (Ex. 2B(1), p. 2), and the Corrective Action Report (Ex. 2B(2), p. 1).

The applicant has a number of procedures in place to help assure consistent test protocol and interpretations. For example, DS&G has a procedure in place to record technical policy interpretations pertaining to a test standard and to disseminate this information to the staff (see Corrective Action Report (Ex. 2B(2), p. 2). OSHA considers these procedures to be adequate.

Although at the time of the on-site review DS&G had no designated Quality Assurance Manager, the Vice President of Engineering had the quality assurance responsibilities to review and approve the work of the staff engineers and technicians related to product approvals. This same individual also conducted regular performance reviews of staff members to assure adherence to standards and procedures, in lieu of a formal internal audit program. While OSHA considered this adequate for the present workforce and workload, it noted the informality of this procedure and recommended formalizing certain aspects of the program to assure objective evaluations of performance if the laboratory expands or the workload increases (see the On-Site Evaluation, Ex. 2B(1), p. 5). DS&G has since implemented these recommendations and modified these aspects of its program (see the Corrective Action Report (Ex. 2B(2), p. 2). A Quality Assurance Manager has been appointed with the responsibility for test equipment calibration, review of form reports and test records, and for the initiation and maintenance of the Follow-Up Services Program. A formal audit team has also been designated to randomly select and review reports and test records to insure that proper procedures have been followed and that test data is reproducible.

Type of Testing

The standard contemplates that testing done by NRTLs fall into one of two categories: testing to determine conformance with appropriate test standards, or experimental testing where there might not be one specific test standard covering the new product or material. DS&G has applied for recognition in the first category.

Follow-Up Procedures

Section 1910.7(b)(2) requires that the NRTL shall provide certain follow-up procedures to the extent necessary for the particular equipment or material to be listed, labeled or accepted. These include implementation of control procedures for identifying the listed or labeled equipment or materials, inspecting the production run at factories to assure conformance with test standards, and conducting field inspections to monitor and assure the proper use of the label. One commentator (Exc. 3–7, p. 5) stated that "the applicant indicates that such a (follow-up) program currently does not exist". This same commentator states further that there is no description in the follow-up agreement on legal action regarding the misuse of the listing mark and of public notification regarding hazardous products; that the follow-up program of DS&G only addresses products from stock; and that the applicant indicates that it "may" request samples from the manufacturing line, which tends to weaken the program.

Although DS&G has not previously listed products, it has written follow-up procedures to verify that the product at the manufacturing site, as it is currently assembled, is identical to samples of the product that have been evaluated and tested. An agreement must be signed by the submitter/client which, among other stipulations, permits DS&G to conduct follow-up service inspections of listed products at the manufacturing site. The approval mark authorized by DS&G cannot be applied to the product until after the first inspection is carried out.

Such inspections will be conducted at three-month intervals from the date of the approval. Unresolved discrepancies found during the follow-up procedures can result in the forfeiture of the right to apply the label, removal of already affixed labels, and possible recall of products sold with the label. DS&G has the right to notify vendors, authorities,

potential users, and others of an improper or unauthorized use of its mark.

DS&G's follow-up services agreement stipulates that it shall have free, unannounced, and immediate access to the factories and other facilities wherein the products, or any component thereof, may be fabricated, processed, finished, stored or located, at all times during business hours or when the factory or storage facilities are in operation, in order that such representative may properly perform the follow-up service. DS&G has also stated that it was always its intent to conduct unannounced factory follow-up inspections, and to require a review of samples from the manufacturing line (see Ex. 4, p. 5).

Field inspections may be necessary under various circumstances. The determination on whether to conduct these field inspections routinely, sporadically, or not at all for a given product, will depend upon the results of the factory follow-up and other relevant considerations. As an example, field inspections may be appropriate when the laboratory has reason to believe that its mark or label is being improperly used. Such belief could result from observed events or information from complainants. Another situation necessitating a field inspection could arise where it is impractical to conduct regular factory inspections because of a limited production schedule. It is expected that the decision on conducting field inspections will be continually reevaluated to fit the circumstances. DS&G, in the written terms and conditions of its follow-up services, states that it will make periodic examinations or tests of products at the factory and may, from time to time, select samples from the factory, the open market, or elsewhere to be sent to a DS&G testing station for examination or test to determine compliance with DS&G's requirements.

The on-site review demonstrated that DS&G has experience with a follow-up program to correct product problems and insure the integrity of the label. Moreover, OSHA will periodically review the follow-up procedures to evaluate their efficacy.

Independence

Section 1910.7(b)(3) requires that the NRTL be completely independent of employers subject to the tested equipment requirements and of any manufacturer or vendor of equipment or materials being tested. The applicant stated in its application that it is a privately held company jointly owned in equal shares by its three officers. It operates as an independent testing laboratory and has no fiduciary relationship or association with its vendors, suppliers, or clients except as a facility engaged to perform regulatory and compliance testing. Moreover, no officer of DS&G owns any stock in any manufacturer whose products DS&G tests.

DS&G has stated that it will maintain this same level of independence throughout its existence as a Nationally Recognized Testing Laboratory.

Creditable Reports/Complaint Handling

Section 1910.7(b)(4) provides that an OSHA recognized NRTL must maintain effective procedures for producing creditable findings and reports that are objective and without bias. The laboratory, in order to be recognized, must also maintain effective procedures for handling complaints under a fair and reasonable system.

The DS&G application as well as the on-site review report indicate that DS&G does maintain effective procedures for producing creditable findings and reports that are objective. As part of the review, several test reports were reviewed and found to be consistent with the intent of § 1910.7(b)(4)(i) to produce creditable findings and reports. This requirement is, however, essentially procedural in nature (see 53 FR 12111, 4/12/88). OSHA believes that its evaluation of DS&G's capabilities, including its personnel, equipment, facilities, calibration program, and quality assurance program, as well as its independence, among other things, indicates that there are appropriate procedures being implemented to produce objective test reports that are without bias.

The requirement that a laboratory have a fair and reasonable system for handling complaints was intended to allow interested parties an avenue of redress when, for example, it is believed that an item has been improperly labeled or that an inappropriate test procedure has been applied. It was not intended to interfere with any laboratory's recognized responsibility to decide whether to approve, list, label, or certify any particular type of equipment or material which it had tested. Indeed, many of the ANSI test standards include in the preface a statement specifically indicating that an item may not be acceptable even though it may meet all the test criteria. Rather, 29 CFR 1910.7(b)(4)(ii) was intended to help settle complaints and disputes after an item has been approved, listed, labeled, or certified. DS&G has a program to assure that the complaints of any interested party, including users of the product, will be fairly handled and resolved. Its procedure requires that the complaint first be presented for resolution in house. If the dispute cannot be resolved, there is a procedure for referring the issue to an impartial third person for resolution.

One respondent (Ex. 3–7, p. 5) objected to DS&G's dispute handling procedure on the basis that the results would lack consistency as different parties would be involved and different arbitrators could be selected. The essential ingredient in this requirement is that all interested persons have access to a dispute handling system which is both "fair and reasonable" (of *ASME* v. *Hydrolevel* 456 U.S. 556, 102 S.Ct. 1935 (1982)). Arbitration and mediation are long recognized and satisfactory methods of resolving disputes between private parties and are consistent with 29 CFR 1910.7(b)(4)(ii).

Test Standards

Section 1910.7 requires that a nationally recognized testing laboratory use "appropriate test standards". The standard defines an appropriate test standard as a document which specifies the safety requirements for specific equipment or a class of equipment and is recognized in the United States as providing an adequate level of safety, compatible with and maintained current with periodic revisions of applicable national codes, and developed by a standards developing organization under a system of providing for broad input from interested parties § 1910.7(c)(1), (2), and (3)). The standard also designates as "appropriate" any standard that is currently designated as an ANSI safety designated product standard or an ASTM test standard used for evaluation of products or materials. (See § 1910.7(c)(4)).

Laboratories may also use other test standards that the Assistant Secretary of Labor has evaluated to determine that such standard provides an adequate level of safety. (See § 1910.7(d)). In this case, DS&G has indicated that it will use the ANSI/UL and UL test standards listed below. The ANSI standard (ANSI/UL #1012—Power Supplies) is an appropriate test standard within the meaning of 29 CFR 1910.0(b) and (c)(4). As to the other test standards DS&G has applied to use (UL #478, UL #1459, and UL #544), OSHA has examined the status of the Underwriters Laboratories Inc. (UL) Standards for Safety and, in particular, the method of their development, revision and implementation and has determined that they are appropriate test standards under the criteria described in 29 CFR

1910.7 (1), (2), and (3). That is, these standards specify the safety requirements for specific equipment or classes of equipment and are recognized in the United States as safety standards providing adequate levels of safety; are compatible with and remain current with periodic revisions of applicable national codes and installation standards; and are developed by a standards developing organization (i.e. UL) under a method providing for input and consideration of views of industry groups, experts, users, consumers, governmental authorities, and others having broad experience in the safety fields involved.

One of the commentators (Ex. 3–7, pp. 3–4) stated that the test standards "are listed without their date of issue" and raised the spectre of inconsistency; they believe "there is need for assurance of testing to latest versions of the standard". DS&G indicated that part of its testing includes a Revision Subscription Service to automatically obtain the latest revisions of the standards (see on-site review report). The procedures identified by DS&G indicate its capability to test to the latest revision of the test standard. This is the same level of assurance that would be required of other recognized laboratories. The procedures to be followed in the event of test standard changes are adequately stated in Appendix A of 29 CFR 1910.7.

Other Issues

One of the respondents (Ex. 3–7) raised a number of issues that were not directly relevant to the issue of DS&G meeting the definition of an NRTL as set forth in 29 CFR 1910.7. These comments were general criticisms of the standard. For example, one such comment focused on the need to designate and use a single test standard for each product. (Ex. 3–7, pp. 1–2). This issue had been raised by the same respondent during the rulemaking proceeding and was discussed and resolved in the preamble to the final rule (see 53 CFR 12108–12109, 4/12/88). Since these general issues were raised and resolved during the promulgation of the standard it is not now timely to comment on them.

Another comment (Ex. 3–7, p. 4) indicated that no information was provided relative to the testing and approval of components.

The NRTL Program does not address whether one NRTL must accept another NRTL's listing or recognition of a component. Instead, the laboratory listing the overall product acceptance, listing, or recognition, is responsible for assuring that the components used in the product meet the applicable test standards. In DS&G's case, where a recognized component is required DS&G will require that that component be labelled with the recognition mark of a nationally recognized testing laboratory. The component vendor will then be required to supply DS&G with evidence of component recognition. Finally, the component vendor will be required to supply DS&G with a copy of the "Conditions of Acceptability", which describes the tests that need to be performed upon the component in the end product. (See Ex. 4, pp. 2–3).

Another issue raised by a commentator (Ex. 3–7, pp. 5–6) concerned test and evaluation consistency among all NRTLs.

This would be an ideal state which may be achieved in the future when laboratories exchange information on a regular basis. This is not being accomplished by the nationally recognized testing laboratories presently in their standards or interpretations. In addition, consistent interpretation of standards between the two presently recognized Nationally Recognized Testing Laboratories is not the case in every instance.

Final Decision and Order

Based upon a preponderance of the evidence resulting from an examination of the complete application, the supporting documentation, the OSHA staff finding including the on-site review report, and the comments presented during the public review and comment period, OSHA finds that Dash, Straus and Goodhue, Inc., has met the requirements of 29 CFR 1910.7 to be recognized by OSHA as a Nationally Recognized Testing Laboratory to test and certify certain equipment or materials.

Pursuant to the authority in 29 CFR 1910.7, it is ordered that the Dash, Straus and Goodhue, Inc., be recognized as a Nationally Recognized Testing Laboratory subject to the conditions listed below. This recognition is limited to equipment or materials which, under 29 CFR Part 1910, require testing, listing, labeling, approval, acceptance, or certification, by a Nationally Recognized Testing Laboratory. This recognition is limited to the use of the following test standards for the testing and certification of equipment or materials included within the scope of these standards.

DS&G has stated that all the standards in these catagories are used to test equipment or materials which may be used in environments under OSHA's jurisdiction:

UL#478—Information-Processing and Business Equipment
UL#1459—Telephone Equipment
UL#544—Electric Medical and Dental Equipment
ANSI/UL #1012—Power Supplies.

Dash, Straus and Goodhue, Inc., also must abide by the following conditions of its recognition, in addition to those already required by 29 CFR 1910.7:

The Occupational Safety and Health Administration shall be allowed access to DS&G's facilities and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If DS&G has reason to doubt the efficacy of any test standard it is using under this program, it shall promptly inform the test standard developing organization of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

DS&G shall not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, DS&G agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

DS&G will continue to meet the requirements for recognition in all areas for which it has applied; and

DS&G will cooperate with OSHA at all times to assure compliance with the letter as well as the spirit of its recognition and 29 CFR 1910.7.

EFFECTIVE DATE: This recognition will become effective on June 16, 1989, and will be valid for a period of five years from that date, until June 16, 1994, unless terminated prior to that date, in accordance with 29 CFR 1910.7.

Signed at Washington, DC this 13th day of June, 1989.

Alan C. McMillan,

Acting Assistant Secretary.

[FR Doc. 89–14402 Filed 6–15–89; 8:45 am]

BILLING CODE 4510–26–M

Nevada State Standards; Approval

1. *Background:* Part 1953 of Title 29, Code of Federal Regulations, prescribes procudures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereafter called Regional

Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(e) of the Act and 29 CFR Part 1902. On January 4, 1974, notice was published in the **Federal Register** (39 FR 1008) of the approval of the Nevada plan and the adoption of Subpart W to Part 1952 of Title 29 containing the decision. The Nevada plan provides for the adoption of Federal standards as State standards by reference.

By letters dated April 17, 1989, and April 28, 1989, from Nancy C. Barnhart to Frank Strasheim and incorporated as part of the plan, the State submitted State standard revisions identical to 29 CFR 1910.1000, Air Contaminants (January 19, 1989, 54 FR 2332) and Hazardous Waste Operations and Emergency Response (March 6, 1989, 54 FR 9294).

These standards are contained in the Division of Occupational Safety and Health Standards for General Industry. The subject standards, 29 CFR 1910.1000, Air Contaminants and 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response were adopted by reference on March 1, 1989, and March 6, 1989 respectively, pursuant to Nevada State law, § 618.295.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the standards are identical to the Federal standards and accordingly are approved.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 71 Stevenson Street, Room 415, San Francisco, CA 94105; and Director, Division of Occupational Safety and Health, 1370 South Curry Street, Carson City, Nevada 89710; and Directorate of Federal-State Operations, 200 Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Nevada State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal Standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective June 16, 1989.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667). Signed at San Francisco, California this 15th day of May, 1989.)

Frank Strasheim,

Regional Administrator.

[FR Doc. 89–14361 Filed 6–15–89; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 786–0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency; pursuant to authority granted my by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c), (4), (6) and (9)(B) of section 552b of Title 5, United States Code,

1. *Date:* July 6, 1989, *Time:* 8:30 a.m. to 5:00 p.m., *Room:* 315, *Program:* This meeting will review applications in Elementary and Secondary Education in the Humanities, submitted to the Division of Education Programs, for projects beginning after December 1, 1989.

2. *Date:* July 6–7, 1989, *Time:* 9:00 a.m. to 5:00 p.m., *Room:* 415, *Program:* This meeting will review applications in Museums and Historical Organizations, submitted to the Office of Challenge Grants, for projects beginning after December 1, 1989.

3. *Date:* July 10–11, 1989, *Time:* 9:00 a.m. to 5:00 p.m., *Room:* 430, *Program:* This meeting will review applications in Research Scholarship, Graduate Education, submitted to the Office of Challenge Grants, for projects beginning after December 1, 1989.

4. *Date:* July 17–18, 1989, *Time:* 9:00 a.m. to 5:00 p.m., *Room:* 430, *Program:* This meeting will review applications in Public Outreach, submitted to the Office of Challenge Grants, for projects beginning after December 1, 1989.

5. *Date:* July 24–25, 1989, *Time:* 9:00 a.m. to 5:00 p.m., *Room:* 430, *Program:* This meeting will review applications in Museums and Historical Organizations, submitted to the Office of Challenge Grants, for projects beginning after December 1, 1989.

6. *Date:* July 7, 1989, *Time:* 10:00 a.m. to 1:00 p.m., *Room:* 316–2, *Program:* This meeting will review applications in Regrants, submitted to the Division of Research Programs, for projects beginning after December 1, 1989.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 89–14382 Filed 6–15–89; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Human Factors; Cancellation

The ACRS Subcommittee meeting on Human Factors scheduled to be held on June 15, 1989 has been cancelled. The

notice of this meeting was previously published in the Federal Register on Monday, June 12, 1989 (54 FR 24974).

Date: June 12, 1989.

Gary R. Quiltschreiber,

Chief, Project Review Branch No. 2.

[FR Doc. 89-14391 Filed 6-15-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-28641 License No. 42-23539-01AF EA 88-87 USAF Permit No. 34-00472-02]

Department of the Air Force, Wright-Patterson Air Force Base; Order Imposing Civil Monetary Penalties

I

The Department of the Air Force (licensee) is the holder of License No. 42-23539-01AF issued by the Nuclear Regulatory Commission (NRC/Commission) on June 26, 1985. The license authorizes the licensee to possess byproduct material, source material, and special nuclear material for uses authorized by the U.S. Air Force Radioisotope Committee and in accordance with the conditions specified therein.

II

An inspection of the licensee's activities was conducted during the period October 24, 1986 through February 11, 1987. The results of this inspection indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated June 17, 1988. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalties proposed for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties by letters dated July 15, 1988. In its response, the licensee denied one violation, stated that it can neither admit nor deny that a second violation occurred, and set forth several reasons why in its view the civil penalties should not be imposed.

III

After consideration of the licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the Deputy Executive Director for Materials Safety, Safeguards, and Operations Support has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It Is Hereby Ordered That:*

The licensee pay civil penalties in the amount of One Hundred Two Thousand Five Hundred Dollars ($102,500) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing shall be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. A copy of the hearing request also shall be sent to the Assistant General Counsel for Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Regional Administrator, Region III, U.S. Nuclear Regulatory Commission, 799 Roosevelt Road, Glen Ellyn, Illinois 60137, and to the Regional Administrator, Region IV, U.S. Nuclear Regulatory Commission, 611 Ryan Plaza, Suite 1000, Arlington, Texas 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties referenced in Section II above; and

(b) Whether, on the basis of such violations, this Order should be sustained.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

Dated at Rockville, Maryland this 8th day of June 1989.

Appendix—Evaluation and Conclusion

On June 17, 1988, a Notice of Violation and Proposed Imposition of Civil Penalties (NOV) was issued for violations identified during an NRC inspection. The Department of the Air Force responded to the Notice on July 15, 1988. In its response, the licensee denied one violation, stated that it can neither admit nor deny that a second violation occurred, and set forth several reasons why in its view the civil penalties should not be imposed. The NRC's evaluation and conclusions regarding the licensee's arguments are as follows:

Violation A

Restatement of Violation A

10 CFR 20.403 (b)(3) and (b)(4) require the licensee to contact the NRC within 24 hours of discovery of an event involving licensed material possessed by the licensee that may have caused or threatens to cause a loss of one day or more of the operation of any facility affected, or damage to property in excess of $2,000.

Contrary to the above, the licensee failed to notify the NRC within 24 hours of discovery of an event involving licensed material possessed by the licensee that may have caused or threatens to cause a loss of one day or more of the operation of any facility affected, or damage in excess of $2,000. On September 19, 1986, members of Wright-Patterson's Bio-Environmental Engineering Group initially concealed from both NRC and Air Force personnel an americium-241 spill, which occurred on September 18, 1986 in a facility used as a waste storage area. Although the licensee did contact NRC officials on September 26, 1986, the Air Force did not relay to the NRC accurate information, which was known to Brooks Air Force Base, so that the NRC could make an accurate assessment of the event. Moreover, on October 6, 1986 an entry was made into the same facility which resulted in the overexposure cited in Violation B and additional contamination. Nevertheless, neither the initial event nor the second event was accurately reported to the NRC until November 7, 1986. These events caused the licensee to take action to prohibit the use of its waste storage area for more than one day and caused damage to property as demonstrated by the decontamination costs in excess of $2,000.

This is a Severity Level I violation (Supplement IV) Civil Penalty—$100,000

Summary of Licensee's Response

The license denies that a report was required with regard to the matters which occurred on either September 18 or October 6, 1986. In this connection, the licensee argues that the reporting regulation is ambiguous regarding what constitutes an "event," "loss of facility," and "damage to property." The

licensee further argues that the regulation is unenforceably vague, and that there was no need to report the incident since the facility continued to be used as a storage facility and the costs required for cleanup did not constitute "damage." The licensee also denies that there was an intent or attempt to deliberately provide inaccurate or incomplete information to the NRC or to mislead NRC officials with respect to either incident or an intent to restrict NRC personnel from receiving information germane to the performance of NRC duties.

NRC's Evaluation of Licensee's Response

The NRC disagrees that the reporting requirements as applied to these incidents are vague, and maintains that the events which occurred on September 18 and October 6, 1986 did indeed constitute events which required 24 hour notification.

On August 20, 1986, an NRC Region III (NRC–RIII) special inspection was conducted to evaluate allegations by John C. Haynes. The allegations were that: (1) During a 1972–1974 time period, Haynes transferred an unknown quantity of unencapsulated americium-241 to the Radiation Safety Officer (RSO) at Wright-Patterson Air Force Base (WPAFB) without the knowledge of WPAFB management; and (2) the RSO informed Haynes that during the 1972–1974 time period, 100 curies of americium-241 were found and transferred to the Monsanto Corporation of Dayton, Ohio.

During an August 20, 1986 interview, the WPAFB RSO stated that he had never received any radioactive material for disposal from the alleger and denied that americium-241 was found and transferred to the Monsanto Corporation. The RSO also provided a written statement to NRC inspectors confirming his oral statement. The inspectors reviewed waste handling records in an attempt to validate the RSO's testimony. No indication was found of transactions with Mr. Haynes.

On September 18, 1986, the RSO, along with other WPAFB personnel, entered Building 4060, a radioactive waste storage building, to conduct an inventory. During this entry, an americium-241 release occurred while opening a barrel to identify its contents. That barrel contained the material that had been illegally received from the alleger by the RSO. The entry resulted in personnel contamination that required several showers for decontamination. Both the Director and Deputy Director, WPAFB Bio-Environmental Engineering (BEE) Group, were notified of the event on September 18, 1986.

A meeting of the BEE Group took place on September 19, 1986. During that meeting, the event, its reportability, and methods for cleanup were discussed. The Director, BEE, instructed the other members not to report the event to anyone, including other groups in the Air Force. A plan for illicit disposal of the material, consisting of mislabeling waste barrels, was also discussed. When the Director, BEE, learned during the meeting that the meeting was being tape recorded for the purpose of preparing meeting minutes, he ordered that the portion of the tape dealing with the contaminaton event be destroyed. Outside the meeting, the Director, BEE, requested the Deputy Director, BEE, to consult with the WPAFB Medical Physicist regarding appropriate followup activities.

On September 22, 1986, the Deputy Director, BEE, assumed command of BEE Group as the Director was on temporary duty in St. Louis, Missouri. As instructed that day by the Director, the Deputy Director discussed the event with the Medical Pysicist for WPAFB Medical Center and asked for his recommended course of action. The Medical Physicist suggested that BEE should notify the Base Commander and determine the identity of the isotope. On September 26, 1986, the Medical Physicist realized that the Deputy Director had not made any notifications and had not determined the isotope. The Medical Physicist took it upon himself to identify the isotope and report the event to the Base Commander and the Medical Center Director. Later that day, it was determined that the isotope was americium–241.

After the Base Commander was briefed on September 26, the Base Commander initiated a comprehensive reponse to the event. The following actions were directed by the Base Commander: (1) Immediately determine if contamination existed external to the building; (2) seal the building; (3) cordon off the area; (4) restrict access to the building; (5) contact the USAF Radioisotope Committee by telephone for notification purposes; (6) acquire the use of the Air Force Radiological Assistance Team (AFRAT) for cleanup operations; and (7) prepare a suitable decontamination plan for implementation, including times and milestones. It was also directed that the appropriate authorities and organizations should be informed.

At 3:30 p.m., on September 26, 1986, the Medical Physicist, WPAFB informed the Executive Secretary of the USAF Radioisotope Committee at Brooks AFB of the problem and the Executive Secretary assured him that the required notifications to the NRC would be made. The Executive Secretary had been informed by the Medical Physicist that the event was a high-level spill of radioactive material in a building and that the material was americium–241, but might also include plutonium–239. The Executive Secretary then directed a staff member to inform the NRC Region IV (NRC–RIV) about these facts. Although a telephone call to NRC–RIV was made, the information provided to NRC officials was that the event consisted of leakage of low-level waste drums and was scheduled to be minor. NRC officials were also told that the event was under review and more details would be forthcoming. The identity of the isotope and high-level nature of the spill was not mentioned.

On September 29, 1986, as determined from interviews and the notes of individuals, the Director and Deputy Director of the BEE Group, were aware of the involvement of Haynes and the illicit nature of the material that had been spilled. The Base Commander stated that the number one priority of WPAFB at that time was the contamination event. Also, on September 29 or October 2, 1986, the Executive Secretary briefed his replacement on the event, as he was reporting to a new duty assignment.

On October 3, 1986, an NRC–RIV official who had been involved in the September 26, 1986, phone call contacted the new Executive Secretary, since no further information had been received from NRC. The event was described by the new Executive Secretary to the NRC official as being minor in nature. He also told the NRC official that the contamination was localized and there did not appear to be a major problem. At this point, the new Executive Secretary knew that the cleanup operation would cost at least $100,000, yet he did not mention this to the NRC representatives.

Another telephone call to NRC–RIV officials was made on October 6, 1986. Again, Air Force personnel contacted described the events as minor in nature and did not mention the isotope. Also, on this date, Air Force health physics personnel entered Building 4060 to evaluate radiaton levels. A significant uptake of americium–241 to one individual (8.07 nanocuries) and additional contamination resulted from this entry.

Because of continuing escalation of the event, the new Executive Secretary decided to call NRC–RIV on October 10, 1986, and discuss the event in further detail. Although during this telephone call he informed NRC–RIV of the identity of the material, he did not discuss the extent of the spill and the amount of money needed to clean up the problem. The NRC–RIV official asked the new Executive Secretary if NRC reporting requirements had been reviewed and was told that they had been reviewed and a report was not required.

Neither the September 18 nor the October 6, 1986, event was accurately reported to the NRC until November 7, 1986, and these events caused the loss of operation of Building 4060 for more than one day and resulted in damage to property, as demonstrated by the decontamination costs, in excess of $2,000. The licensee argues that the storage aspect of the facility continued to be unaffected. NRC disagrees with the licensee's conclusion. Routine use, as understood by NRC, consisted of waste barrels entering, being stored, and exiting the facility. Individuals would enter and exit the facility with minimal anti-contamination clothing. After the events of September 18 and October 6, 1986, the licensee controlled the facility in the following manner: (1) On Octer 4–5, a security watch was provided to prevent individuals from even approaching Building 4060 and measures were taken to prevent reentry, and (2) from October 14–23, the licensee had to order new equipment necessary for reentry. Such equipment was previously unnecessary. No barrels were added or removed after the September 18 event until the new equipment necessary for reentry was received.

Barrels were eventually removed in response to the event. The most striking argument for loss of the facility is the final determination by the licensee that the building could no longer serve a useful purpose and had to be destroyed. Although this action occurred some time after the event, sufficient information immediately following the event demonstrated that

Building 4060's function as intended prior to the event was clearly lost.

Furthermore, NRC officials were misled by USAF officials. Personnel from the Radioisotope Committee did not provide adequate information to the NRC Region IV office and the Director of BEE, and upper-level base individual, instructed his employees not to discuss the event with anyone outside the BEE Group. Such actions on the part of the licensee, through its employees, are unacceptable and were in disregard of the NRC's responsibility for public health and safety.

Violation B

Restatement of Violation B

10 CFR 20.103(a)(1) limits the quarterly uptake of radioactive materials in air by individuals in restricted areas to amounts derived from the concentration limits in 10 CFR Part 20, Appendix B, Table I, Column I, using the formula in 10 CFR 20.103(a)(1) Footnote 3. The derived quarterly limit for uptake of soluable americium–241 in air is 3.8 nanocuries.

Contrary to the above, on October 6, 1986, an individual working in a restricted area inhaled or ingested approximately 8.07 nanocuries of soluble americium-241.

This is a Severity Level III violation (Supplement IV). Civil penalty—$2,500.

Summary of Licensee's Response

The licensee claims that at the time of its response (July 15, 1988) it could neither admit nor deny that an individual in a restricted area received an exposure to radiation in excess of the regulatory limits set forth in 10 CFR 20.103(a)(1). Its basis for making this claim is that an independent contractor had been obtained by the Air Force to assess bioassay data for the individual in question and to date the results of the assessment are pending.

NRC's Evaluation of Licensee's Response

The NRC conclusion that the individual in question exceeded the regulatory limits of exposure to americium-241 by a factor of approximately two was based on information received from the licensee. Specifically, on December 7, 1987, a formal report from the licensee was sent to the NRC stating that the report was a final summary report of bioassay results. The licensee's own report stated that the individual did exceed the quarterly MPC limits by a factor of approximately two. The NRC's review of the data at that time confirmed the licensee's conclusion. Therefore, based on the information currently available, the NRC maintains that the individual received an exposure to americium-241 in excess of the regulatory limit. If, at some time in the future, further data are submitted in conflict with this information, the NRC may reevaluate its conclusion. To date, no further assessment data have been submitted to the NRC.

Summary of Licensee's Arguments for Mitigation or Elimination of the Civil Penalty

The licensee makes several assertions in support of its argument that the civil penalty should be mitigated or eliminated. These can be summarized as follows: (1) The level of the penalty for Violation A, without consideration of the factors provided in the Enforcement Policy, is arbitrary and capricious; (2) Mr. Lewis, who accepted and stored waste at Wright-Patterson Air Force Base, acted in a purely personal capacity, and without the knowledge of his superiors, and his conduct has never been condoned by the licensee; (3) imposition of civil penalties upon the Air Force would punish the victim of the misconduct, and serve no valid purpose, and it is unfair to the Air Force, previously a highly satisfactory licensee, to term the Air Force "deceptive" under the ambiguous circumstance which existed; (4) credit should be given for the licensee's prompt identification and reporting of both events (as soon as management became aware of the events, they were reported and each significant change in the situation was promptly passed on the the NRC), corrective action, and exemplary past performance; (5) since Region III failed to inform Region IV or the Radioisotope Committee of allegations by J.C. Haynes that americium-241 had been delivered to Mr. Lewis, the Radioisotope Committee was not sensitive to Region III's concern that they could not account for several curies of americium-241, and this contributed to Lewis' having unsupervised access to Building 4060; and (6) the levying of a civil penalty by one federal agency upon another is unconstitutional.

NRC's Evaluation of Licensee's Arguments

Violation A is Arbitrary and Capricious

The level of the penalty for Violation A is not arbitrary and capricious but is in accordance with the NRC's Enforcement Policy 10 CFR Part 2, Appendix C (Policy). Violation A, the failure to file a report, would normally be categorized at Severity Level III in accordance with Supplement IV.C.3 of the Policy. However, that severity level was increased to Severity Level I pursuant to Section V.B of the Policy which states that "in cases involving willfulness, flagrant NRC-identified violations, repeated poor performance in the area of concern, or serious breakdown in management controls, NRC intends to apply its full enforcement authority where such action is warranted, including issuing appropriate orders and assessing civil penalties for continuing violations on a per day basis, up to the statutory limit of $100,000 per violation, per day." Thus, the staff concluded that Violation A involved a willful attempt to conceal these events by a number of USAF personnel and that the NRC should exercise its enforcement discretion and increase the penalty for Violation A to $100,000.

Mr. Lewis Acted in a Purely Personal Capacity

NRC does not agree that Mr. Lewis acted in his own capacity without knowledge of his superiors. Based upon statements made during the NRC investigation, the NRC has determined that Mr. Lewis was accompanied by his superior, now retired Colonel Milner, during the receipt of the material. Furthermore, even if Mr. Lewis had acted alone, as stated in Section V.A of NRC's Enforcement Policy, the NRC holds licensees responsible for the actions of their employees. This is especially appropriate where the person is the Radiation Safety Officer who is responsible for radiation protection. In addition, with respect to the reporting violation, it is clear that several USAF officials were responsible for failing to adequately inform NRC.

Imposition of Civil Penalties Upon the USAF Would Punish the Victim

The failure of USAF officials to provide adequate information to the NRC Region IV office did not involve lower level base personnel, but personnel from the Radioisotope Committee. Additionally, on September 19, 1986, the Director of Bio-Environmental Engineering, an upper-level base individual, when questioned as to the reportability of the September 18 event, stated that he was not going to inquire as to whether the event necessitated reporting. He also instructed his employees not to discuss the event with anyone outside the BEE Group. The Deputy Director, BEE, when instructed to report the event and determine the isotope, made no attempt to follow such instructions. Individuals at Brooks Air Force Base clearly had information which NRC officials needed in order to respond properly to the event, but failed to communicate such information to the NRC in a timely fashion. Such actions on the part of the licensee, through its employees, are not acceptable and were in disregard of its and the NRC's responsibility for public health and safety.

Credit Should be Given for Reporting, Corrective Actions and Past Performance

The NRC also does not find that the licensee's reporting of the events, corrective actions, or prior performance warrant mitigation of the civil penalties. With regard to the licensee's reporting of these events, neither the September 18 nor the October 6, 1986 event was accurately reported to the NRC until November 7, 1986. As stated above, the NRC concluded that Violation A involved a willful attempt to conceal these events by a number of USAF personnel and it should exercise discretion and escalate the base civil penalty. In reaching the decision to exercise this discretion, the NRC recognized the licensee's corrective actions and its prior good enforcement history. While the Enforcement Policy allows for mitigation of civil penalties for such factors as corrective actions and enforcement history, because of the seriousness of this matter, mitigation is not considered appropriate in this case.

Contrary to the licensee's assertion that it kept the NRC appraised of any changes in the situation, the NRC was not informed that bioassay data was still being reviewed until the licensee filed its response to the NOV in July 1988. Until then, the NRC was of the impression until receipt of that response that a final determination had been made of the individual's exposure. In particular, on December 7, 1987, a formal report from the licensee was sent to the NRC stating that the report was a *final* (emphasis added) summary report of the bioassay results.

Region III Did Not Notify Region IV or the Radioisotope Committee of the Haynes-Lewis Connection

With regard to the licensee's allegations that Region III did not notify the Radioisotope Committee of the Haynes-Lewis connection, NRC did not notify the Committee of the allegations because it did not appear to have an immediate impact on health and safety. During the Haynes confiscation in 1985, the NRC believed that the majority of the americium-241 in Haynes' possession had been accounted for based on scientific analyses conducted on the confiscated material and estimates from the many radiological surveys conducted. In addition, the NRC believed that the material, if indeed transferred, was in small quantities and had been disposed of through the Air Force. Although the regulatory responsibility for the broad scope license did not become Region IV's until October 1, 1986, Region III should have advised Region IV of the allegations and the subsequent findings. However, had NRC Region III discussed this matter with Region IV, Region III would have told Region IV that the majority of the radioactive material had been recovered, but that there were reservations about the RSO's statement concerning whether he had received material from Haynes. The NRC had no reason to believe that curie amounts of radioactive material were unaccounted for, as alleged by the United States Air Force.

In addition, NRC believes that it is erroneous to state that the licensee was not informed of the Haynes-Lewis allegation. During the August 20, 1986 inspection prior to the event, NRC inspectors questioned WPAFB officials about the allegation. Before the NRC inspectors left the base, they discussed the matter with high-level base officials. It was clearly understood by the Deputy Base Civil Engineer, acting for the Base Commander, that NRC was concerned about the Haynes-Lewis connection and tried to obtain information to substantiate the allegation.

On October 1, 1986, several days after the base commander had been informed of the contamination event, the Region III Branch Chief in charge of the inspectors who performed the August 20, 1986 inspection called to discuss the inspection. The base commander informed the Branch Chief that USAF was, indeed, contemplating further investigation of the allegations.

NRC believes that high-level officials at the specific USAF base connected with the allegations were adequately informed in advance of the events. It appears that base personnel failed to adequately brief Radioisotope Committee personnel about NRC concerns.

Imposition of a Civil Penalty by One Federal Agency Upon Another is Unconstitutional

With regard to the licensee's generalized statement and its March 17, 1989 letter to the Department of Justice that imposition of a civil penalty by one federal agency upon another is unconstitutional, the civil penalty action taken against the United States Air Force was in accordance with the NRC's Enforcement Policy which is based on the Atomic Energy Act of 1954. The Act gives NRC the authority to regulate all activities under its jurisdiction in order to protect the public health and safety. The Atomic Energy Act of 1954 does not differentiate between Federal and private licensees in NRC's authority to issue civil penalties. The language of the Atomic Energy Act authorizes civil penalties against any "person," which is defined to include "any * * * government agency other than the Commission. * * *"

The Atomic Energy Act in our view is not unconstitutional. The applicability of section 234 of the Act to Execute Branch agencies is discussed in some detail in the letter and memorandum sent by the NRC's General Counsel to the Department of Justice on April 18, 1989, copies of which were sent to the Air Force's General Counsel. Therefore, consistent with prior NRC enforcement actions regarding other federal agencies and the Atomic Energy Act, the civil penalty is being imposed.

NRC Conclusion

After reviewing the licensee's response to the Notice of Violation and Proposed Imposition of Civil Penalty, the NRC staff has concluded that the violations occurred as stated in the Notice, and that the licensee has not provided a basis for mitigation of the civil penalties. Accordingly, a civil penalty in the amount of One Hundred Two Thousand Five Hundred Dollars ($102,500) should be imposed.

[FR Doc. 89-14370 Filed 6-15-89; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Information Collection for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44 U.S. Code Chapter 35), this notice announces a collection of information from the public that has been submitted to OMB for clearance. it will be a blanket clearance to cover information collection from applicants, deans, and references in the selection of Presidential Management Interns to comply with Executive Order 12364 signed by President Reagan on May 24, 1982. We estimate 2350 respondents will expend 1533 burden hours annually to file these forms. For copies of this proposal, call Grace Butler on (202) 632-0259.

DATE: Comments on this proposal should be received on or before June 26, 1989.

ADDRESSES: Send or deliver comments to—C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Managment, 1900 E Street, NW., Room 6410, Washington, DC 20415, and Joseph Lackey, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3002, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Patricia Paige (202) 632-0601.

U.S. Office of Personnel Management.

James M. Strock,

Acting Director.

[FR Doc. 89-14369 Filed 6-15-89; 8:45 am]

BILLING CODE 6325-01-M

PEACE CORPS

Information Collection Request Under OMB Review

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) this notice announces that the information collection request abstracted below has been forwarded to the Office of Management and Budget for review and is available for public review and comment. A copy of the information collection may be obtained from Ms. Martha Saldinger, Office of Private Sector Relations/Development Education, Peace Corps, 1990 K Street, NW., Washington, DC 20526. Ms. Saldinger may be called at 202-254-8406. Comments on this form should be addressed to Ms. Francine Picoult, Desk Officer, Office of Management and Budget, Washington, DC 20503.

Information Collection Abstract

(1) *Title:* Peace Corps Partnership Donor Forms.

(2) *Need for and Use of the Information:* To gather the names, addresses and telephone numbers of people who have expressed interest in the Peace Corps Partnership Program. This list will be used to send information about new projects, meetings or conferences that might interest the current or potential donor.

(3) *Respondents:* Schools, businesses, civic organizations, corporations and individuals who have requested more information about the Partnership Program.

(4) *Burden on the public:*

a. Annual reporting burden: 332 hours.

b. Annual recordkeeping burden: 0 hours.

c. Estimated average burden hours per response: 5 minutes.

d. Frequency of response: on occasion.

e. Estimated number of likely respondents: 4,000.

This notice is issued in Washington, DC, on June 1, 1989.

Margaret H. Thome,

Associate Director for Management.

[FR Doc. 89-14297 Filed 6-15-89; 8:45 am]

BILLING CODE 6051-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26909; File No. SR-NASD-89-14]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Qualification Examination Waiting Periods

The National Association of Securities Dealers, Inc. ("NASD") submitted on March 21, 1989, and amended on April 25, 1989, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to amend Part VI of Schedule C to the NASD By-Laws to establish waiting periods between attempts to pass qualification examinations.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 26771, May 1, 1989) and by publication in the **Federal Register** (54 FR 19620, May 8, 1989). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: June 8, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-14308 Filed 6-15-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea Working Group on Radiocommunications; Meetings

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct open meetings at 0930 on the following dates: September 21, 1989; October 19, 1989; November 16, 1989; and December 21, 1989. These meetings will be held in room 9230 of the Department of Transportation, 400 Seventh Street, SW., Washington, DC 20950-0001.

The purpose of these meetings is to discuss the Global Maritime Distress and Safety System (GMDSS), and to prepare for the 35th Session of the International Maritime Organization Subcommittee on Radiocommunications. Agenda items also include GMDSS implementation in the U.S., cost of maritime safety services, improved dissemination of maritime safety information, and Chapter 9 of the Torremolinos International Convention for the Safety of Fishing Vessels.

Members of the public may attend these meetings up to the seating capacity of the room.

For further information contact Mr. Ronald J. Grandmaison, U.S. Coast Guard Headquarters (G-TTS-3), 2100 Second Street, SW., Washington, DC 20593-0001. Telephone: (202) 267-1389.

Date: June 1, 1989.

Thomas J. Wajda,

Chairman, Shipping Coordinating Committee.

[FR Doc. 89-14353 Filed 65-15-89; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

[Docket 46338]

Hermens/Markair Express, Inc.; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. All future pleadings and other communications regarding the proceeding shall be served on him at the Office of Hearings, M-50, Room 9228, Department of Transportation, 400 Seventh Street, SW., Washington DC 20590. Telephone: (202) 366-2142.

William A. Kane, Jr.,

Chief Administrative Law Judge.

[FR Doc.89-14314 Filed 6-15-89; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended June 9, 1989

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No.: 46329.

Date Filed: June 6, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 5, 1989.

Description: Application of United Air Lines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Economic Regulations applies for a certificate of public convenience and necessity to serve Warsaw, Poland from Chicago.

Docket No.: 46331.

Date Filed: June 7, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 5, 1989.

Description: Application of American Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Economic Regulations applies for an amendment of its certificate of public convenience and necessity for Route 137 so as to authorize nonstop air service between Chicago, Illinois and Warsaw, Poland.

Docket No.: 46333.

Date Filed: June 7, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 5, 1989.

Description: Application of American Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Economic Regulations applies for an amendment of its certificate of public convenience and necessity for Route 137 so as to authorize nonstop air service between Chicago, Illinois and Moscow, Union of Soviet Socialist Republics.

Docket No.: 45944.

Date Filed: June 7, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 5, 1989.

Description: Application of Mid Pacific Air Corporation pursuant to

Section 401(D) and 401(D)(3) of the Act and Subpart Q of the Rules of Practice requests the transfer of Mid Pacific Airlines, Inc. certificates of public convenience and necessity to MPAC.

Docket No.: 45945.

Date Filed: June 7, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 5, 1989.

Description: Application of Mid Pacific Air Corporation pursuant to Section 401(D) and 401(D)(3) of the Act and Subpart Q of the Rules of Practice requests the transfer of Mid Pacific Airlines, Inc. certificates of public convenience and necessity to MPAC.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 89-14315 Filed 6-15-89; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 89-047]

National Boating Safety Advisory Council; Applications for Appointment

AGENCY: Coast Guard, DOT.

ACTION: Request for applicants.

SUMMARY: The U.S. Coast Guard is seeking applicants for appointment to membership on the National Boating Safety Advisory Council (NBSAC). The Council is a 21 member Federal advisory committee that advises the Coast Guard on matters related to recreational boating safety. Members for the Council are drawn equally from the following sectors of the boating community: State officials responsible for State boating safety programs; recreational boat and associated equipment manufacturers; and boating organizations and the general public. Members are appointed by the Secretary of Transportation. Applicants are considered for membership on the basis of their expertise, knowledge, and experience in boating safety. The terms of appointment are staggered so that seven vacancies occur each year.

Applications are being sought for membership vacancies that will occur as follows: Three (3) members from the recreational boat and assocaited equipment manufacturers; two (2) members from national recreational boating organizations and from the general public; and two (2) members from State officials responsible for State boating safety programs. To achieve the balance of memberhsip required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women.

The Council normally meets twice each year at a location selected by the Coast Guard. When attending meetings of the Council, members are provided travel expenses and per diem.

DATE: Requests for application forms should be received no later than September 29, 1989.

ADDRESS: Requests for application forms should be sent to Commandant (G-NAB/12), U.S. Coast Guard Headquarters, Washington, DC 20593-0001; telephone: (202) 267-0997.

FOR FURTHER INFORMATION CONTACT: Captain W.S. Griswold, Executive Director, National Boating Safety Advisory Council (G-NAB), Room 1202, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001; (202) 267-1077.

Dated: June 9, 1989.

Robert T. Nelson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 89-14313 Filed 6-15-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: June 12, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2409, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Departmental Offices

OMB Number: New.

Form Number: TD F 90-21.5, TD F 90-21.5a, TD F 90-21.5b.

Type of Review: New Collection.

Title: Survey of Depreciation of Assets Used in the Manufacture of Fabricated Metal Products.

Description: The purpose of this study is to collect date that will allow the determination of the class life for assets used in the manufacture of fabricated metal products. The study will affect producers of fabricated metal products.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 375.

Estimated Burden Hours Per Response: 12 hours.

Frequency of Response: Unless changes in technology require otherwise, reporting will be required only once.

Estimated Total Reporting Burden: 4,500 hours.

Clearance Officer: Dale A. Morgan (202) 343-0263, Departmental Offices, Room 2409, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Department Reports Management Officer.

[FR Doc. 89-14303 Filed 6-15-89; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: June 12, 1989.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-1079.

Form Number: 9041.

Type of Review: Resubmission.

Title: Application for Electronic/Magnetic Tape Filing of Forms 1041, 1065, 5500-C or 5500-R.

Description: Form 9041 will be filed by fiduciaries, partnerships, and plan sponsors/administrators as an application to file their returns electronically or on magnetic tape; and by software firms, service bureaus, and electronic transmitters, to develop auxiliary services.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 3,000.

Estimated Burden Hours Per Response: 18 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 900 hours.
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89-14304 Filed 6-15-89; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: June 12, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0094.
Form Number: None.
Type of Review: Extension.
Title: Customs Regulations.
Description: The Drawback Regulations supplement Drawback Law, and provide, among other things, specific procedures for claimants as to what type of records and forms are needed for compliance with the law. Part 191 details the records which must be maintained for three years after payment of drawback.
Respondent: Business or other for-profit, Small businesses or organizations.
Estimated Number of Recordkeepers: 3,500.
Estimated Burden Hours Per Recordkeeper: 7 hours.
Frequency of Response: Recordkeeping.
Estimated Total Recordkeeping Burden: 24,500 hours.

OMB Number: 1515-0166
Form Number: None.
Type of Review: Extension.
Title: Import Sanctions Against Toshiba Machine Company and the Kongsberg Company
Description: The declaration will be used by importers of products of Toshiba Machine Company and the Kongsberg Trading Company for requesting an exception to the three year prohibition on the importation of all products which were produced by these companies.
Respondent: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 2.
Estimated Burden Hours Per Response: 41 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 1,475 hours.
Clearance Officer: Dennis Dore (202) 535-9267, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc.89-14305 Filed 6-15-89; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Amendment to Report of New Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Amendment to Notice of Report of New Matching Program—Department of Veterans Affairs and Pension Records/State and Local Wage, Tax, and Employment Security Records.

SUMMARY: On May 2, 1988 (53 FR 15616-17), the Department of Veterans Affairs (VA), which was then known as the Veterans Administration (see 54 FR 10476 for change of nomenclature effective March 15, 1989), published a notice that it was initiating a series of computer matches of VA Compensation and Pension records with State and local wage, tax, and employment security records. VA is amending the notice to correct a typographical error, to make an addition to section b.(1), and to revise section b.(2) of the report.

EFFECTIVE DATE: July 17, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. J. Gary Hickman, Director, Compensation and Pension Service (21), Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2264.

SUPPLEMENTARY INFORMATION: The computer matches in the notice of matching program which appeared May 2, 1988 (53 FR 15616), were designed to identify individuals who may be ineligible for, or not fully entitled to, veterans benefits and to identify those instances in which it appears that recipients may not have reported all employment and/or income received.

The computer matching will be performed by State or local agencies by comparing a magnetic tape file of beneficiary social security numbers from VA compensation and pension files with their wage, tax, or employment security files. The social security numbers of veterans' spouses, if available from individual VA compensation and pension files, also will be supplied for matching.

VA is amending the notice to provide that financial data obtained may also be used to determine appropriate action for recovering overpayments of any VA gratuitous benefit, delinquent indebtedness under the home loan guaranty and health services programs, and debts not involving benefits under laws administered by VA.

VA is amending the notice as follows:

(a) Under the heading b.(1), "Purpose," a sentence is added at the end, as follows: Data obtained from the matches may be used to determine the appropriate action to be taken in recovery of debts owed to VA.

(b) Under the heading g., "States and other Geographical Entities To Be Included in the Match:," the State of California is added to the list provided.

(c) The text under the heading b.(2), "Procedures," is revised to read as it appears below.

The computer matching will be performed by State or local agencies by comparing a magnetic tape file of beneficiary social security numbers from VA compensation and pension files with their wage, tax, or employment security files. The social security numbers of veterans' spouses, if available from individual VA compensation and pension files, also will be supplied for matching. In those pension programs known as Improved Pension and section 306 Pension, the income of a veteran's spouse must be considered in determining entitlement to benefits, and in improved Pension the spouse's income also is a factor in determining the rate payable. The State or local agencies will send VA a magnetic tape file containing names, social security numbers, wage and employment histories, and identification of employers for all match hits. In this computer matching program, a "hit" is

defined as the identification of an individual in the records that are being matched or compared with each other and results when any VA-provided social security number matches a social security number recorded in the State or local file being matched. When it is necessary to verify the identity of beneficiaries who appear in State or local files, VA may furnish additional identifying data such as date of birth, place of birth, sex, etc. In accordance with Title 38, United States Code, the names and addresses of veterans and beneficiaries will not be made available to State or local agencies except in connection with a proceeding for the collection of a debt owed to the United States and resulting from the receipt of VA benefits.

Hits resulting from these matches will be treated as follows: The VBA, through a series of computer edits, first will verify against VA records the identity of the persons listed as hits and then review the information obtained through the match. If the review indicates that information provided to VA in applying for a benefit may not have been accurate, or that a change in a beneficiary's eligibility may have occurred that has not been reported to VA, the information and identity of the person involved will be referred to the VA regional office of jurisdiction for adjudicative review and determination of a need for follow-up action. Employers or other knowledgeable sources may be contacted in the verification process. A reduction, suspension, or termination of benefits payments may ensue when the circumstances warrant and after due process has been afforded to the beneficiary. Action to recover overpayments also may be taken.

The financial data obtained may be used to determine appropriate action for recovering overpayments of any VA gratuitous benefit, delinquent indebtedness under the home loan guaranty and health services programs, and debts not involving benefits under laws administered by VA.

If referral for litigation is appropriate, the financial data will be disclosed to VA District Counsels, the U.S. Department of Justice, or private attorneys acting as agents of either VA or the Department of Justice. Disclosure will be made only to the agency supervising the litigation and, if necessary, to the private attorney, if any, to whom the litigation is assigned.

Prior to release of financial data to the Department of Justice or private attorneys, VBA will obtain written agreements, where necessary, with the party pursuing collection specifying (1) that the financial data will remain the property of VA and will be returned to VA upon completion or termination of collection efforts; (2) that it will be used only to pursue collection of debts due VA and not for any other private or commercial purposes; and (3) that the data will not be duplicated or disseminated by the party pursuing collection without the written authorization of VBA.

When there are reasonable grounds to believe that there has been a violation of criminal law, the matter will be referred to the VA Office of Inspector General (OIG) for investigation and prosecutive consideration.

For the purposes of these matches, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

Copies of this notice have been provided to both Houses of Congress and the Office of Management and Budget.

Approved: June 13, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

[FR Doc. 89-14387 Filed 6-15-89; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 115
Friday, June 16, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, June 21, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed 1990 Federal Reserve Board budget guideline.
2. Proposed 1990 Federal Reserve Board budget objective.
3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: June 14, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–14416 Filed 6–14–89; 9:53 am]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS.

TIME AND DATE: Approximately 11:00 a.m., Wednesday, June 21, 1989, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Policy regarding annual leave program for officers.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 14, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–14417 Filed 6–14–89; 9:53 am]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNONCEMENT: 54 FR 24787, June 9, 1989.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, June 14, 1989.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Bank supervisory matter.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: June 14, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–14463 Filed 6–14–89; 2:18 pm]

BILLING CODE 6210–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Eleventh Annual Meeting of the Board of Directors

TIME AND DATE: 4:00 p.m.—Tuesday, June 27, 1989.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., Eighth Floor—Board Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Martha A. Diaz-Ortiz, Assistant Secretary, 376–2400.

AGENDA:

I. Call to Order and Remarks of Chairman
II. Approval of Minutes, February 21, 1988
III. Election of Chairman
IV. Election of Vice Chairman
V. Appointment of Audit Committee
VI. Appointment of Personnel Committee
VII. Appointment of Budget Committee
VIII. Election of Officers
IX. Executive Director's Activity Report
X. Audit Committee Report
—Recommendation of Outdside Auditors
XI. Treasurer's Report

Carol J. McCabe,

Secretary.

Martha A. Diaz-Ortiz,

Assistant Secretary.

[FR Doc. 89–14462 Filed 6–14–89; 2:18 pm]

BILLING CODE 7570–02–M

POSTAL RATE COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, June 22, 1989.

PLACE: Conference Room, 1333 H Street NW., Washington, DC 20268.

STATUS: Open.

MATTERS TO BE CONSIDERED: Election of a Vice Chairman.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street NW, Washington, DC 20268–0001, Telephone (202) 789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 89–14410 Filed 6–13–89; 4:20 pm]

BILLING CODE 7715–01–M

POSTAL RATE COMMISSION

TIME AND DATE: 10:30 a.m., Thursday, June 22, 1989.

PLACE: Conference Room, 1333 H Street, NW., Washington, DC 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: To discuss a Decision in Docket No. MC88–2.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

[FR Doc. 89–14411 Filed 6–13–89; 4:20 pm]

BILLING CODE 7715–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of June 19, 1989.

A closed meeting will be held on Thursday, June 22, 1989, at 1:00 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the

Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Thursday, June 22, 1989, at 1:00 p.m., will be:

Settlement of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Litigation matters.

Institution of administrative proceedings of an enforcement nature.

Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Holly Smith at (202) 272-2091.

Jonathan G. Katz,

Secretary.

June 13, 1989.

[FR Doc. 14518 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 54, No. 115
Friday, June 16, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

[Docket No. 90390-9090]

Countervailing Duties

Correction

In proposed rule document 89-10560 beginning on page 23366 in the issue of Wednesday, May 31, 1989, make the following correction:

In the first column under **DATE**, "[insert date 60 days after date of publication in **Federal Register**]" should read "July 31, 1989".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. P.L. 89-2-000 et al.]

Interstate Natural Gas Pipeline Rate Design; Black Marlin Pipeline Co. et al.

Correction

In notice document 89-13479 beginning on page 24382 in the issue of Wednesday, June 7, 1989, make the following corrections:

On page 24382, in the second column, in the table, under "Docket Nos.", the fifth and sixth entries should read "RP86-168-000" and "RP86-167-000" respectively.

BILLING CODE 1505-01-D

INTERSTATE COMMERCE COMMISSION

[Docket No. MC-C-30157]

St. Johnsbury Trucking Co., Inc.; Petition for Declaratory Order

Correction

In notice document 89-13783 appearing on page 24765 in the issue of Friday, June 9, 1989, in the heading, the docket number was incorrect and should read as set forth above.

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 170

RIN 3150-AC61

Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Reactors

Correction

In rule document 89-8832 beginning on page 15372 in the issue of Tuesday, April 18, 1989, make the following correction:

§ 170.21 [Corrected]

On page 15400, in the first column, in the table, the heading ".Nuclear Power Reactors" should read "A.Nuclear Power Reactors".

BILLING CODE 1505-01-D

federal register

Friday
June 16, 1989

Part II

Department of Agriculture

Forest Service

Department of the Interior

Bureau of Indian Affairs
Bureau of Land Management
Fish and Wildlife Service
National Park Service

Final Report and Recommendations of the Fire Management Policy Review Team and Summary of Public Comments; Notice

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

National Park Service, Fish and Wildlife Service, Bureau of Land Management, Bureau of Indian Affairs

Final Report and Recommendations of the Fire Management Policy Review Team and Summary of Public Comments

AGENCIES: Forest Service, Agriculture; National Park Service, Fish and Wildlife Service, Bureau of Land Management, Bureau of Indian Affairs, Interior.

ACTION: Notice of availability of final report and recommendations of the Fire Management Policy Review Team concerning Federal fire management policy for national parks and federally designated wilderness areas.

SUMMARY: On September 28, 1988 the Secretaries of the Department of Agriculture and the Department of the Interior appointed the interagency Fire Management Policy Review Team to investigate and recommend modifications to agencies' current fire management policies for national parks and federally designated wilderness areas. Pursuant to that directive, the Team held eleven public hearings throughout the Nation regarding its draft report of December 15, 1988. Written and oral comments were received and reviewed, and the draft report was subsequently revised. The Team's final report and recommendations is herewith published. In addition, a summary of the public comments gathered during the review of the draft report is also published. The report recommendations will be used by Federal land management agencies in modifying their fire managment policies.

ADDRESS: Copies of the final report are available from: Director, Public Affairs Office, Forest Service-USDA, South Building, 12th & Independence Avenue SW., Washington, DC 20250, (202) 447–3760; or Chief, Office of Public Affairs, National Park Service, P.O. Box 37127, Main Interior Building-Mail Stop 3043, Washington, DC 20013–7127.

SUPPLEMENTARY INFORMATION:

Final Report on Fire Management Policy

May 5, 1989.

Table of Contents

Summary

The Fire Management Policy Review Team was established on September 28, 1988 to review national policies and their application for fire management in national parks and wilderness and to recommend actions to address the problems experienced during the 1988 fire season. The Team draft report was submitted to the Secretaries of the Interior and Agriculture on December 15, 1988. A 60 day public review and comment period, incorporating a series of public hearings, began with publication of that report in the **Federal Register** on December 20, 1988. Having reviewed and considered the public comments, this final report is submitted in culmination of the Team's charter.

The Fire Management Policy Review Team finds that:

- The objectives of prescribed natural fire programs in national parks and wildernesses are sound, but the policies need to be refined, strengthened, and reaffirmed. These policies permit fires to burn under predetermined conditions.
- Many current fire management plans do not meet current policies; the prescriptions in them are inadequate; and decision-making needs to be tightened.
- There are risks inherent in managing wildland fires. These risks can be reduced by careful planning and preparation. Use of planned burning and other efforts to reduce hazard fuels near high value structures and to create fuel breaks along boundaries help to reduce risks from both prescribed natural fires and wildfires.
- The ecological effects of prescribed natural fire support resource objectives in parks and wilderness, but in some cases the social and economic effects may be unacceptable. Prescribed natural fires may affect permitted uses of parks and wilderness, such as recreation, and impact outside areas through such phenomena as smoke and stream sedimentation.
- Dissemination of information before and during prescribed natural fires needs to be improved. There needs to be greater public participation in the development of fire management plans.
- Internal management processes, such as training more personnel, developing uniform terminology, and utilizing similar budget structures, would significantly improve fire management.
- Claims were heard that some managers support "naturalness" above all else, allowing fires to burn outside of prescription requirements without appropriate suppression actions.

The Team recommends that:

- Prescribed natural fire policies in the agencies be reaffirmed and strengthened.
- Fire management plans be reviewed to assure that current policy requirements are met and expanded to include interagency planning, stronger prescriptions, and additional decision criteria.
- Line officers certify daily that adequate resources are available to ensure that prescribed fires will remain within prescription, given reasonably foreseeable weather conditions and fire behavior.
- Agencies develop contingency plans to constrain the use of prescribed fire in the event or anticipation of unfavorable weather or fire conditions, or when necessary to balance competing demands for scarce fire suppression resources.
- Agencies consider opportunities to use management ignited prescribed fires to complement prescribed natural fire programs and to reduce hazard fuels.
- Agencies utilize the National Environmental Policy Act requirements in fire management planning to increase opportunities for public involvement and coordination with state and local government.
- Agencies provide more and better training to assure an adequate supply of knowledgeable personnel for fire management programs.
- Agencies review funding methods for prescribed fire programs and fire suppression to improve interagency program effectiveness.
- Additional research and analysis relating to weather, fire behavior, fire history, fire information integration, post-fire effects, and other topics be carried out so that future fire management programs can be carried out more effectively and with less risk.
- Allegations of misuse of policy be promptly investigated and acted upon as may be appropriate.

Background

The 1988 fire season was severe in many parts of the western United States. Near record acreages were burned over, and more than one-half billion dollars were expended on suppression efforts. Additional resources will be required for rehabilitation and other follow-up needs.

Although the western United States experienced wildland fires exceeding recent history, the extraordinary fire situation in 1988 in the Greater Yellowstone Area was the focal point for public concern and agency criticism. Yellowstone National Park enjoys a special place in the hearts of Americans and, indeed, people worldwide. Vivid accounts of the Yellowstone fires appeared daily on television and in the newspapers from July through September. Visitor use was interrupted; smoke episodes disturbed local communities; and some summer businesses were hurt. A total of 249 seprate fires were counted during the summer in the Greater Yellowstone Area, burning over a million acres. Twenty-eight of the 249 fires began as prescribed natural fires as permitted under current Department of the Interior (USDI) and Department of Agriculture (USDA) policy. Controversy arose over the adequacy of fire suppression. We have to ask ourselves:

- Is the policy allowing fire to play its natural ecological role in parks and wilderness under certain conditions flawed or inappropriate? What are the alternatives, and what are their effects?
- Should more of the fires have been declared wildfires and suppressed earlier, particularly given the drought? Should early suppression action have been more vigorous?
- Are surrounding communities being put at risks unacceptable to them by natural prescribed fire programs or from policies that restrict fire suppression tactics? Or do management ignited prescribed fires and prescribed natural fires result in an appreciable net reduction in risks?
- Are offsite effects, such as smoke and air and water pollution, acceptable, and are they adequately assessed in planning for these programs? How do they compare to offsite effects to that which would occur without such programs?
- Is the public aware of the ramifications of current policy and alternatives, such as immediate suppression of all fires or letting all fires burn unchecked?
- Did Federal and State agencies spend too much money on suppressing the fires? Would they have spent less if prescribed natural fire programs had not been implemented or if there had been better public understanding of and support for natural fires?
- Are agencies perceived as incompetent when large, numerous fires occur that partially result from natural prescribed fire programs or from policies that restrict fire suppression tactics?
- To what extent has a long-term credibility and communication problem been created between the public and agencies, and, if so, how can it be corrected?
- Is the large array of successful fire management programs across the nation now at risk? Activity in the Greater Yellowstone Area in 1988 has triggered public debate and professional concern about current fire policies in Federal land management agencies nationwide. Wildland fire management is a high risk activity. There are many areas of the United States where similar wildland fire disasters could occur. This risk is increasing in many areas due to the combination of fuel accumulation and the continuing development of private and commercial interests in flammable, wildland settings. Therefore, it is timely to take a national look at current wildland fire policies, their application, and implementation plans to ensure that the risks and costs to society are acceptable, in light of the alternatives.

Establishment of National Fire Management Policy Review Team

The Secretaries of Interior and Agriculture established a Fire Management Policy Review Team on September 28, 1988. This multi-agency team, co-chaired by Interior and Agriculture representatives, was assigned the task of reviewing the current national park and wilderness fire management policies and action plans of all agencies within both Departments and recommending changes needed to address the problems experienced during the 1988 fire season. The Team met regularly with representatives of the National Fire Protection Association, the Western Governors Association, and the academic community. The Team was also directed to consult with representatives of knowledgeable organizations and individuals to arrive at proposed changes. The Team's report was originally submitted on December 15, 1988. A 60 day public comment phase began with publication of the Team's report in the **Federal Register** on December 20. The Team prepared this final report after thorough review of oral and written public and agency comments. Revised policy and application requirements will be implemented prior to the 1989 western fire season.

The goals of the Fire Management Policy Review Team were:

- To identify issues and concerns which arose during the 1988 fire season related to fire management policy and its application;
- To gather information from a cross-section of knowledgeable parties about current fire policy and its application;
- To develop recommendations for appropriate changes in fire policy and improvements in application; and
- To identify areas of needed additional study and analyses.

The Team began with the premise that its charter did not include detailed evaluation of the overall management direction for national parks and wildernesses and therefore focussed just on fire management policies. For example, wilderness areas and, to a more varied degree, national parks have been designated as special areas where "natural" processes can occur in perpetuity with minimum influence of human activities. This basic direction, arising from the National Park Service Organic Act of 1916 and the Wilderness Act of 1964, is usually interpreted to allow natural disturbances, such as insect infestations, disease, blowdowns, and fire, to occur without human intervention. Examining other policies that define and guide "natural" processes was not part of the Team's assignment.

With the submission of this report, the Team considers its assignment to be completed. We would be remiss if we did not recognize the contributions of our staff directors, David Behler and John Chambers, and many others who made it possible to complete this report. In particular, John Gerard of the National Fire Protection Association, Paul Cunningham, Vice President of the Western Governors Association, Dr. Robert Lee of the University of Washington, and Dr. Ronald Wakimoto of the University of Montana were helpful in facilitating the supply of information about fire management policies and their applications from outside organizations and academia.

Concerns and Views

As stated in the Team's charter, "the objective of the review process is to determine the appropriate fire policies for national parks and wildernesses which addresses the concerns expressed by citizens and public officials about the management of fires of these lands as a result of the Yellowstone fire situation."

To gather information about those concerns, individual members of the Team, assisted by representatives of the National Fire Protection Association, the Western Governors Association, and the academic community, met with or called a number of knowledgeable persons, including governors, local government officials, concessioners and outfitters, individuals with businesses in nearby

communities, organizations with an interest in parks and wildernesses, academicians, and others. The Team also reviewed letters, summaries of correspondence, and many newspaper and journal articles related to fire management policy.

The concerns can be summarized as follows:

- Definition of prescribed fire conditions and limitations was inadequate.
- There was little opportunity for citizen participation in the development of fire management plans.
- The interdependence of park/wilderness and nearby communities was ignored in the implementation of fire management programs.
- Adequate communication and information before and during fires, whether wildfires or prescribed, was lacking.
- There appeared to be waste in the application of fire management policies, in natural resources that might have been utilized rather than burned, in the on- and off-site effects of fire on available recreation sites, wildlife habitat and forage, soil erosion, and damage to watershed, and in the costs of firefighting.
- An inadequate number of management ignited prescribed fires have been conducted to significantly reduce the amount of hazard fuels.
- There were unnecessary interagency conflicts.
- Authority for action in fire management needed to remain with line officials in the field, not centralized in Washington.

There are also concerns with strongly held conflicting views. The three principal areas are:

- The definition of "naturalness" and its application in driving fire management policy;
- the extent to which management ignited prescribed fires are used to reduce hazard fuels in the Northern Rockies; and
- whether the fires in 1988 were allowed to burn more extensively than they should have before suppression actions were taken.

Not all comments were critical of Federal efforts to manage fire:

- The role of fire in managing vegetation and wildlife habitat was noted by many.
- The bravery and competence of fire suppression personnel were frequently extolled.
- Examples were mentioned of individual and agency actions to inform the public, to protect life and property, and to minimize disruptions during and after the fires.
- There are many positive effects from prescribed natural fires. Overreaction to the events of 1988 should not be used to justify severe curtailment of their use.

Policy Options

Fire management policy options range from immediate control of all fires to allowing all wildland fires to burn. The team considered the full range following its discussion with interested parties and agency personnel.

The great majority of comment from knowledgeable people indicated support for the careful use of management ignited prescribed fires and prescribed natural fires, in accordance with publicly reviewed management plans. There was also general agreement that such policy must be executed in ways that give the fullest possible assurance that human lives and property or special resources will not be lost or seriously impaired.

Federal Fire Policies

Traditionally, the fire policies of Federal land management agencies were to control all wildland fires as promptly as possible. When initial attack failed in controlling a fire the first day, personnel and equipment were organized to control the fire by 10:00 a.m. the succeeding day.

Current fire management policies among the Federal agencies reflect similar evolutions and are similar in scope and intent. Fire management programs and activities are conducted in support of land and resource management plans and objectives. Two kinds of wildland fires are recognized: prescribed fires and wildfires. Prescribed fires may be ignited by managers, or naturally occurring fires may be allowed to burn, under specified conditions to achieve established management objectives. Any other fire is considered a wildfire, and appropriate suppression action is taken on all wildfires. Suppression strategies considered in determining the appropriate action range from prompt control, minimizing acreage burned, to more indirect suppression action to contain or confine wildfires when these alternatives are less costly than immediate control in terms of suppression cost, damage from fire, and other adverse impacts.

These policies as applied to parks and wildernesses, implemented in 1968–85, allow for the prescribed use of fire, either by natural causes or management ignited, in support of land management objectives. The suppression of all wildfires is required, using economically efficient and environmentally compatible methods. All prescribed fires require pre-planning and decision criteria addressing expected fire behavior and effects.

Prescribed fires may be used to achieve agency land or resource management objectives defined in fire management plans. The following considerations are to be addressed in such plans: management objectives for the area, historic fire occurrence, natural role of fire, proposed degree of suppression, expected fire behavior, acceptable suppression techniques, adequate buffer zones, smoke management, and effects on adjacent land owners.

Prescribed fires are to be conducted only when the following conditions are met:

- They are conducted by qualified personnel under written prescriptions (prescribed fire plan).
- They are monitored to assure they remain within prescription.

Prescribed fires that exceed the limits of an approved fire plan will be reclassified as a wildfire. Once classified as a wildfire, the fire will be suppressed and can not be returned to prescribed fire status.

The important implications of these policies for parks and wilderness areas are:

- It allows managers to restore and maintain the natural role of fire on land when the land management objective is to perpetuate natural processes and values.
- Fire can be used as an important management tool to reduce fuel accumulation, control fire hazard around developments and along boundaries, and to meet other management needs.
- All fires are treated as wildfires, subject to appropriate suppression action, unless a plan is in place that describes the conditions under which prescribed fire will be allowed to burn. Both natural and management-caused ignition are allowed.
- A prescribed fire must be declared a wildfire when it exceeds prescribed conditions.
- There is flexibility for fire management plans to address the unique characteristics and objectives of specific parks and wildernesses.

Fire management plans for national parks and wilderness areas are subject to National Environmental Policy Act (NEPA) compliance.

History and Experience With Natural Fire Programs

Following prescribed burning experience in the Everglades in the

1950's, the National Park Service began to change its fire suppression and prescribed burning policies in 1968 to accept a more natural role of fire in park ecosystems. Lightning-caused fires were allowed to burn under specified conditions in Sequoia-Kings Canyon National Parks that year, followed by a similar program in another 7 parks between 1968 and 1972. In the decade that followed, another 26 parks began some parts of the prescribed fire program (Appendix, Table 1).

The purpose for this policy change was to restore fire to a more natural ecological role. "Naturalness" is defined as those dynamic processes and components which would likely exist today, and go on functioning, if technological humankind had not altered them. (For those concerned about "exclusion of man from nature," the term "wildness" may be more satisfactory; but it is not likely to displace the word "naturalness" in the common vernacular.)

No ecosystem today is totally unaltered by technological humankind. However, extensive areas in which the achievement and maintenance of naturalness is a basic purpose are increasingly important to humankind. These areas are found primarily in national parks and wildernesses. They serve as invaluable scientific benchmarks; and the uniqueness imparted by their natural qualities is irreplaceable as a source of human inspiration and enjoyment. Those natural qualities differ in each area. They are compromised by the effects of necessary and appropriate provisions for enjoyment of parks, the impacts of other uses under legislative mandates governing non-park wilderness and by potential adverse impacts outside of unit boundaries. Each unit in its management plan describes how it will attain the objective of naturalness.

In those parks and wildernesses where fire has been a historic component of the environment, it is critical to management objectives to continue that influence. Any attempts to exclude fire from these lands can lead to major unnatural changes in vegetation and wildlife from that which would occur without fire suppression, as well as creating fuel accumulation that can lead to uncontrollable, sometimes very damaging, wildfire. Current fire management policy allows for inclusion of naturally occurring fire on these lands, to the extent possible, as well as the use of management ignited prescribed burns to bring these areas back into a more natural condition of fire hazard and occurrence, and to reduce the risk of damage from fire to improvements within these areas and to improvements and resources on adjacent lands.

Lightning fire are permitted to burn in designated zones within 46 areas managed by the National Park Service. Nearly 58 million acres of national parks are classified natural fire zones, including 50 million acres in Alaska alone. A total of 58 national park areas use management-ignited prescribed burns to simulate the role of natural fire in certain ecosystems.

The USDA Forest Service also began allowing lightning-caused fires to play a more natural role in wilderness in 1972, when exceptions to the policy of suppressing all fires were approved by the Chief. By 1976, policy exceptions allowing lightning-caused fires to burn under carefully prescribed conditions had been put into effect in parts of the Selway-Bitterroot, Gila, and Teton wildernesses of Idaho, New Mexico and Wyoming.

In 1978, authority to approve wilderness fire management plans was delegated to Regional Foresters as part of a revised policy that called for "fire management programs" as contrasted with previous "fire control programs." This revision—which is current policy—provided for "well-planned and executed fire protection and fire use programs that are cost effective and responsive to land and resource management goals and objectives".

Forest Service wildereness fire management policy was again revised in 1985, following public review and comment, clarifying wilderness fire management objectives and the use of prescribed fire within wilderness. Forest Service ignited prescribed fires were authorized when necessary to meet the objectives of (1) allowing lightning fires to play their natural role to the extent possible and (2) reducing the risk of wildfire within widerness to life and property, and to life, property, and resources outside of wilderness to an acceptable level.

The Bureau of Land Management uses prescribed fire extensively to meet resource and fire management objectives. However, the use is almost exclusively through planned management ignitions. Prescribed natural fire is generally not used due to the predominance of fuel types having a high rate of spread (i.e. grass and brush) commonly found on Bureau-administered lands. Those few fire management plans that identify prescribed natural fire as a management strategy do so for lands located adjacent to wilderness managed by other agencies. The operational plans for these prescribed natural fire areas were developed through coordinated fire planning efforts with the adjacent federal wilderness management agency.

The Bureau of Land Management issued its first policy for the management of lands designated as wilderness study areas in 1979. This policy, which addressed fire management practices, was revised in 1987. Fire management policy for designated wilderness areas was issued in 1981.

The Fish and Wildlife Service manages seventy designated wilderness areas containing approximately 19 million acres; 97 percent of this acreage is in national wildlife refuges located in Alaska. Fires on these refuge wilderness areas are dealt with under the provisions of the Alaska Interagency Fire Plans, which were prepared in cooperation with Federal and State agencies as well as Alaskan Native Corporations. The experience of the period 1982–1988 demonstrates that fires which occur within these wilderness areas have been adequately handled to meet the objectives outlined in these coordinated plans.

Although the Bureau of Indian Affairs has only one Federally designated wilderness area, several tribes have designated areas within their reservations as tribal wilderness. Management of these tribal wilderness areas are based on tribally developed or approved plans and, in most instances, follow closely that outlined in the Wilderness Act of 1964. Lightning-caused fires occurring within these designated areas may be allowed to burn provided they meet all requirements and constraints outlined in the area specific fire management plans. In addition, the use of management ignited prescribed fires to reduce natural fuel buildup has been widely practiced since the early 1940's. Records indicate that only one lightning-caused fire has occurred within the single Federally designated wilderness area on Indian lands, burning an area of approximately 350 acres. No attempt has been made, to date, to separate data on fires occurring on tribally designated wilderness areas from other fires occurring within reservation boundaries.

Results in National Parks

Since the beginning of these programs in 1968 until 1987, more than 1600 lightning-caused fires have been permitted to burn more than 320,000 acres of national park land. Only one serious problem had developed—the Ouzel Fire on the Rocky Mountain

National Park which threatened the adjacent community of Allens Park, Colorado. At the same time, more than 1400 prescribed burns were ignited by the park staff in 46 national park areas that covered more than 325,000 acres. The burns were designed mainly to manage vegetation by simulating the natural role of fire in reducing fuel accumulations in order to modify plant succession and to help maintain ecosystem processes. Some of the benchmark fire management programs in national parks are those found in Sequoia-Kings Canyon and Yosemite National Parks in the Sierra Nevada, the Everglades National Park in Florida and Yellowstone and Grand Teton National Parks in the Rockies.

Results in National Forest Wilderness

Since 1972 when the USDA Forest Service began permitting lightning-caused fires to play a more natural role in wilderness, 503 prescribed natural fires have burned nearly 210,000 acres within wilderness areas in the Northern and Intermountain Regions, the Forest Service Regions having the most active prescribed natural fire managment programs. Of these fires, 23 became wildfires burning an additional 544,000 acres (14 of these escaped prescribed natural fires occurred in 1988). Four management ignited prescribed fires, burning 4,424 acres, have been conducted by the Forest Service in three different wilderness areas since these were first permitted in 1985. (Appendix, Table 2 and 3.)

Findings

After review of policies, guidelines, fire management plans, draft fire reviews of the 1988 Greater Yellowstone fires, and information obtained from written and oral communication with both Federal personnel and knowledgeable citizens, the Team has determined the following:

1. The prescribed natural fire policy in Federal agencies was designed to allow fires to play a more natural role in national parks and wilderness areas. There have been many notable successes in application of this policy. However, in some cases this policy has been interpreted to allow managers to manage prescribed natural fires with essentially no prescriptions.

- Restoration and maintenance of naturalness and natural processes are used as primary objectives of wilderness and national park prescribed fire programs. Exclusive focus on these objectives can lead to inadequate consideration for the positive and negative impacts of fire on uses such as recreation, wildlife habitat, grazing, and water quality.
- Current fire policy or guidelines are subject to abuse in that plans are developed and implemented that don't meet the literal requirements of policy.
- Some park and wilderness managers are reluctant to define size limits and specific prescriptions limiting prescribed natural fires.
- Misuses of the prescribed natural fire program could eliminate the program itself—and lose the benefits that derive from it.

2. The Team heard from agency employees who would welcome an expansion of policy to allow for fires to burn free of prescriptions and without being declared wildfires as long as such fires are not expected to cross administrative boundaries of a park or wilderness or endanger human life and property.

3. Although there are many outstanding examples of fire management plans in all agencies, the team found that some plans do not meet current agency or departmental policy and contain inadequate prescriptions.

- Some plans do not include the required set of prescription criteria for prescribed natural fire programs.
- Some plans do not adequately address suppression resource availability, values at risk outside of parks and wilderness, and the number of fires that can be managed at one time.
- Plans do not address cumulative effects of drought and other potentially important considerations.

4. Some fire management prescriptions do not place adequate limits on fire management decisions.

- Some prescribed fires that were ultimately declared wildfires were interpreted to be within prescription until they reached an arbitrary limitation of a boundary of a park or wilderness boundary.
- Insufficient attention has been given to values at risk, both inside and outside parks and wilderness boundaries.
- There was insufficient consideration of the cumulative risks associated with multiple fires, large fires, or fires with especially active perimeters.
- Insufficient attention was given to the potential cost and damage associated with a prescribed fire later becoming a wildfire requiring suppression action.

5. Beyond being brought up to current standards, fire management programs would be strengthened by a combination of improved decision criteria in plans, additional fire expertise, and more direct line officer involvement.

- Critical decision points (e.g. decision trees) are often not identified in plans.
- Lack of resident fire expertise in some locations is critical.
- Lack of coordination of policy application for prescribed natural fire programs among and within agencies results in disparate treatment of fires and inconsistent decisions.
- Documentation of decisions is often lacking and does not demonstrate the involvement of some agency line officers.
- Some fire management plans do not include the latest technology.
- Plans are not complete in terms of indicators of long-term drought and impact on shared suppression resources.
- Variations in planning and decision processes result in decisions that appear illogical, create political and public concern for competence of the agencies, and render decisions to limit fire size ineffective.
- Prescribed natural fire programs do not adequately consider the impact on other interagency programs and resources.

6. The severity of the 1988 fire season in some areas of the West (the most severe on record in the Greater Yellowstone Area) revealed the risks inherent in managing wildland fires. These risks can include high fire suppression costs as well as unacceptable social, environmental and economic impacts, and natural resource losses. The extraordinary weather conditions of last summer resulted in fire behavior that limited the effectiveness of fire suppression decisions and actions, and at times put managers in the position of being responsible for situations beyond their control. Recognition of the fire weather situation and trends, in some cases, was hampered by the departure of fire management plans from policy by not including prescriptions which would have provided managers a better basis for recognizing the severity of the situation.

7. Prescribed fire using planned management ignitions complements the use of, and reduces the risk from, prescribed natural fires to achieve management objectives. However, there are factors constraining the use of management ignited prescribed fire in some areas.

- Management ignited prescribed fires have been used successfully in some national parks and wilderness to meet management objectives, reduce hazard fuel build-up, and establish fuel breaks.

• Management ignited prescribed fires have not been used in some cases due to the perceived risks from the results of high intensity crowning fires. Also, up-front budgetary costs have limited the use of management ignited prescribed fires; these have rarely been used in wilderness.

• Some people strongly support management ignited prescribed fires as a substitute for prescribed natural fires; others believe strongly that appropriate objectives cannot be achieved without prescribed natural fire.

8. The reduction of hazard fuels around structural developments, parks/wilderness boundaries, and private inholdings enhances the ability to protect these values at risk and reduces costs of wildfire suppression and prescribed natural fire.

9. Agency personnel development and training programs are not maintaining the number of personnel and levels of knowledge required to ensure proper and consistent application of policies and procedures.

• There is an inadequate number of professional managers in field locations with an understanding of fire management and fire management policies and practices.

• Some line officers are not requiring adherence to standards contained in fire management plans.

• Inconsistent application of required processes, such as the Escaped Fire Situation Analysis, leads to poor decisions.

• Some incident management teams, fire professionals, and line officers lack knowledge of suppression tactics necessary under extreme conditions.

• Consideration of suppression costs and potential damage related to fire suppression alternatives and decisions is not adequately documented in Escaped Fire Situation Analyses.

• Some agency fire staffs are not able to maintain expertise in fire management because of infrequent fire occurrences at their location and lack of career mobility or opportunity to gain experience in other locations.

10. The environmental effects of prescribed natural fires within wilderness and park boundaries are usually consistent with natural resource objectives for these lands. However, in some cases the social and economic impacts outside these boundaries may be unacceptable due to smoke, threats to public safety, reduced tourism, loss of income and jobs, and altered water quality and quantity.

11. Inconsistent dissemination of information, inadequate public participation, and a perception of failure to consider some social, environmental, and economic impacts on local businesses and communities are strong issues with the public and political leaders.

• There is a great diversity of views within and outside agencies regarding the basis and the primary objectives of prescribed natural fire programs.

• Adequate public involvement may not have occurred in the development of some prescribed natural fire management plans and the public may not have fully understood the risks inherent in prescribed natural fire management.

• The primary message communicated by agencies continued to be the biological value of prescribed natural fire to vegetation and wildlife even after the fires had been declared to be wildfires.

• There was a lack of uniform, consistent, adequate information on the location of the fires, planned fire management actions, and their implications for the public in terms of road closures, smoke, and other effects on local populations and visitors.

12. Budget structure and funding in the Departments of Agriculture and Interior create the following effects:

• The level of expertise and professionalism needed for the broad spectrum of fire management and use program may not be available to support management objectives in all agencies.

• Dissimilarities between the two departments in the ways in which programs are funded and differences in agencies' terminology inhibit the ability to cooperate and coordinate in prescribed fire programs on mutual boundaries.

• These also cause disparate treatment of naturally occurring fires in determining whether they are designated as prescribed fires or wildfires. Forest Service and Bureau of Land Management policies require that prescribed fires be managed with appropriated funds from the benefiting program. The National Park Service manages prescribed natural fires with emergency funds.

• Hazard fuel reduction programs have not been adequately funded in some cases.

• Very limited appropriated funds are allocated to develop expertise and apply prescribed fire in parks and wildernesses.

• There is an inadequate number of professionals in Federal agencies in fire management programs. Fire management planning and application is a collateral duty at some major parks.

• Agency budgets for presuppression activities have declined in real dollars in recent years.

• National Park Service is completing an analysis of normal fire year operations, FIREPRO III, in order to define essential minimum wildland fire program needs.

13. Lack of clear definition and inconsistent implementation of "light hand on the land" suppression tactics raise serious questions over the management of fires in 1988.

• The public, employees, and cooperators became confused by mixed messages about the intensity of suppression efforts and the objectives to be achieved.

• Incident commanders received unclear direction about the use of certain suppression tactics, which were sometimes in conflict with the selected suppression alternative.

14. Research and analysis are needed to provide tools for management of fire management programs.

• Normal climatic patterns are ordinarily used for projections, yet prolonged drought periods may result in changes in weather patterns that have an abnormal effect on fires and cause an inability to project fire behavior accurately.

• There is little agreement on whether management objectives can be achieved through management ignited prescribed fires when they result in high intensity crown fire.

• Analyses of fire history, occurrence, size, and effects are insufficient for many areas.

• Reliable methods for long-term weather prediction do not exist.

• There are a number of issues concerning the natural fire regime and fire management in subalpine ecosystems vegetated predominantly by lodgepole pine. These include such topics as whether fire behavior and effects from the 1988 fires were as predicted from pre-1988 research and modelling, whether prescribed burning in these ecosystems can be implemented to establish mosaics that would inhibit large scale, uncontrollable fires, and whether conservation of biotic diversity on a shorter scale (less than 300 to 400 years) is feasible and/or desirable.

15. The Review Team finds that the multi-agency program by which fire management is accomplished cooperatively on Federal and State lands in Alaska is consistent with Federal policies. It has proven successful and is improved through frequent review and modification, a process which should continue, with public involvement as recommended in this report.

16. The Team heard claims that some managers with philosophies advocating

naturalness above all else intentionally allow fires to burn outside of prescriptions and do not take the appropriate suppression actions required on a wildfire—allegations that these fires are allowed to burn freely as long as the fire is not expected to leave the boundary of a park or wilderness. These allegations were not supported by anything in the draft fire reviews received to date. The Team did not have the mandate to investigate and verify or disprove the allegations.

Recommendations

The Team recommends that the Secretaries of Agriculture and the Interior implement the following policy and direction:

1. Existing USDI and USDA fire management policies governing wilderness and parks must be strengthened and reaffirmed to limit their application to legitimate prescribed fire programs. Clarification is needed to prevent inappropriate use of fundamentally sound policies.

2. The agencies reaffirm their policies that fires are either prescribed fires or wildfires. The agencies reject as impractical and unprofessional the practice that fires can be allowed to burn free of prescriptions or appropriate suppression action.

3. USDA and USDI agencies will periodically review fire management plans for parks and wilderness for compliance with current policy, direction, and the additional requirements recommended by this report. No prescribed natural fires are to be allowed until fire management plans meet these standards.

4. Current fire management plans must be strengthened by:

a. Developing joint agency fire management plans, agreements, or addendums to existing plans for those areas where fires could cross administrative boundaries. Periodic joint review of these plans should occur. These will include agreement on processes and criteria to be used to make decisions on prescribed vs. wildfire and suppression strategies and tactics.

b. Including a comprehensive set of criteria which will be used in deciding whether or not to allow natural ignitions to burn as prescribed fires. In addition to those criteria currently required and commonly used, the following factors will be considered:

(1) Energy release component.

(2) 1000-hour fuel or duff moisture content.

(3) Appropriate consideration of the national and regional fire situation, including the numbers of fires and amount of available resources to suppress them.

(4) Limits on numbers of fires burning in the planning unit at one time.

(5) Limits on projected length of active perimeter and acreage burned.

(6) Indicators of cumulative drought effects on fire behavior.

(7) Potential impacts upon visitors, users, and local communities, both on and off site.

c. Clearly describing the decision process and factors to be addressed before a fire is declared a prescribed natural fire.

d. Including criteria to be used in declaring a prescribed fire a wildfire. There must be interagency agreement on these factors in areas where fire may move across administrative boundaries and shared suppression resources may be required.

e. Clearly identifying areas that need protection from fire, such as developments within or adjacent to wilderness and park boundaries. Fire management plans should also include actions that are to be taken, such as hazard fuel reduction or installing fuel breaks, to protect such developments or areas.

f. Clearly stating the management objectives being addressed by the prescribed natural fire program, including identification of specific values gained as a result of allowing natural fires to burn unsuppressed within prescribed conditions and areas.

g. Clearly describing the process to be used to ensure adequate public involvement and coordination with local governments in both plan development and implementation.

5. Agencies will cooperatively develop regional and national contingency plans and procedures and provide the appropriate program monitoring and direction, including curtailment of prescribed fire activities when necessary because of competition for national and regional fire suppression resources.

6. The responsible line officer or designee shall certify in writing daily that a fire is within prescription and adequate resources are available to ensure that each prescribed natural fire will remain within prescription through the ensuing 24-hour period, given reasonably foreseeable weather conditions and fire behavior. If the fire cannot be kept within prescription with available forces and funds, it shall be declared a wildfire and appropriate suppression action initiated.

7. Agencies must re-evaluate the opportunities to use management ignited prescribed fire to achieve management objectives and to complement prescribed natural fire programs. Additionally, hazard fuels must be reduced to protect selected areas, particularly developments within and adjacent to boundaries, from prescribed natural fire and high wildfire risk. Fuels will be treated along park and wilderness boundaries or internally where there are high values at risk.

8. Fire program management will be improved by establishing properly staffed regional and unit level organizations.

a. Agencies will ensure the availability of qualified staff and knowledgeable line officers for developing, implementing, and managing prescribed fire programs.

b. National Park Service regional offices will establish a full-time regional fire coordinator to develop and oversee park programs in accordance with FIREPRO III, where appropriate.

c. Agencies will implement the concept of highly trained, well-equipped and mobile tactical teams to provide on-the-ground monitoring and management of prescribed natural fires in national parks and wilderness.

d. Agencies will ensure the strengthened policy is understood and implemented by all appropriate personnel.

e. Agency managers will assure that personnel develop a thorough understanding of the management objectives for the lands they are managing.

f. The National Park Service is to complete an analysis of normal fire year operations, FIREPRO III, in order to define essential minimum wildland fire program needs and to take action to meet those needs.

9. Additional interagency emphasis will be given to addressing opportunities for improving fire management programs.

a. The National Wildfire Coordinating Group (NWCG) charter should be expanded specifically to include prescribed fire program coordination.

b. The NWCG should take the lead in developing common terminology for prescribed burning programs and describing wildfire suppression alternatives.

c. Agencies will develop joint criteria for selecting appropriate suppression tactics in wilderness and parks.

d. Agencies will improve public and agency understanding and acceptance of using appropriate suppression tactics that meet fire management objectives and minimize the adverse impact on wilderness values and park resources.

10. Agencies will ensure NEPA compliance for fire management plans. Agencies will increase opportunities for public involvement and coordination with state and local government when revising or developing fire management plans.

11. Interpretation and public information before and during fires will be improved.

a. Agencies will ensure that timely, accurate, and consistent information is provided for the public on the purpose, presence, and status of prescribed natural fires, as well as impacts on the community due to closed roads, trails, smoke, back country restrictions, and other effects.

b. Interpretive and fire status messages are for different purposes, and agencies should strive to keep them separate and distinct. There should also be a distinction between the information needs for prescribed fires and wildfires.

c. Agencies should ensure that the public is informed of the risks involved in fire management programs.

d. Agencies will use common terminology for prescribed natural fire programs.

12. USDI and USDA will review the methods of funding prescribed fire and fire protection programs with the objective of improving interagency program effectiveness. Planning and presuppression activities should be financed by program funds rather than through emergency fund transfers and supplementals.

13. There is a need for additional research related to fire management programs.

a. USDI and USDA will develop coordinated research programs utilizing the unique capabilities of both organizations.

b. The feasibility of prescribed burning forests using stand replacement fire will be investigated and tested by implementing an appropriate interagency field research program.

c. Research will be increased to improve the ability to predict severe fire behavior, conduct long-term weather forecasting, and identify past abnormal events.

d. Efforts will be undertaken to develop and implement an expert system that integrates a wide array of fuel, topographic, weather, climatological, fire behavior, post-fire effects, and other information and readily displays such information in an interactive mode for the user at a computer terminal. This expert system would help to assure that important variables are not overlooked as decisions are made regarding long duration fires.

e. Efforts will also be undertaken to develop comprehensive data bases for part and wilderness resources and provide for state of the art analyses and display as well as an efficient, continuous monitoring system to insure timely update of information.

f. Development of additional emission factors for wildland fuels and better methods for projecting air quality impacts of prescribed and wildfires are needed, since smoke and air pollution are major considerations in deciding when to terminate prescribed natural fires and in scheduling management ignited prescribed fires.

14. If any Federal bureau engages in prescribed natural fire programs in Alaska, that bureau is responsible for adherence to the standards established as a result of these recommendations. The well-established terminology describing levels of wildfire suppression in Alaska should not be changed for the sake of conformity with the broader categories used elsewhere.

15. The agencies will cooperate fully in determining whether allegations of misuse of policy are true and take measures to ensure that any such practices not occur in the future.

Issues Needing Further Analyses

Following are fire management policy issues that would require more time than the team had available to work out suitable solutions. Resolution of these issues is not critical to fire management readiness for the 1989 fire season, but they should be pursued during the further evolution and improvement of Federal fire management policy and application. They are:

1. Validation of the relationship between current fire management information system components (i.e., drought index, energy release component, 1000 hour fuel moisture, etc.) with actual fire occurrence, severity and size is needed.

2. Development of compatible interagency fire planning methods.

3. Determination of the effect of budgetary constraints and funding sources on fire management programs.

4. Determination of the current and future effects of residential and commercial development on the ability to design and implement prescribed fire programs, including examination of the interrelationship between fire management plans and local planning and zoning functions.

5. Inventory of forest types and locations subject to infrequent but intense large fires, their historic occurrence in terms of drought cycles, and definition of policies to be applied in each case relative to desired results to be achieved.

6. Examination of the adequacy and consistency of application of current fire suppression and prescribed fire cost analysis and risk assessment procedures.

7. Development of interagency guidelines for "light hand on the land" suppression tactics by the National Wildlife Coordinating Group.

8. Development of a better understanding of agency objectives as they relate to fire planning standards and decision criteria.

9. Reexamination as to whether human-caused fires (not ignited by management) should be managed as prescribed fires in certain well-defined circumstances.

10. Additional studies of fire history, occurrence, and size in parks and wilderness.

Appendix—Historical Data of Prescribed Fire Programs of the USFS and NPS

TABLE 1.—PRESCRIBED FIRE OCCURRENCE, THE NATIONAL PARK SERVICE, 1968–87

[Data obtained from NPS Wildland Fire Management Computer System, 1988]

NPS units by region	Prescribed Fire				
	Area size acres	Lightning ignitions		Management ignitions	
		Number	Acres	Number	Acres
Alaska Region					
Bering Land Bridge	2,784,960	6	452		
Denali	6,028,091	23	44,110		
Gates of the Arctic	8,472,517	23	8,560		
Noatak	6,574,481	13	28,961		

TABLE 1.—PRESCRIBED FIRE OCCURRENCE, THE NATIONAL PARK SERVICE, 1968-87—Continued

[Data obtained form NPS Wildland Fire Management Computer System, 1988]

NPS units by region	Prescribed Fire				
	Area size acres	Lightning ignitions		Management ignitions	
		Number	Acres	Number	Acres
Wrangell-St. Elias	13,188,325	7	134		
Yukon-Charley Rivers	2,523,509	13	44,778		
Mid-Atlantic Region					
Delaware Water Gap	66,637			2	11
Midwest Region					
Fort Larned	718			20	572
George Washington Carver	210			14	66
Herbert Hoover	187			7	50
Homestead	195			20	327
Indiana Dunes	13,815			8	333
Isle Royale	571,790	6	1		
Ozark	80,788			69	889
Pipestone	282			25	708
Scotts Bluff	2,997			6	1,871
National Capital Region					
George Washington Memorial Parkway	7,131			2	1
Rock Creek	1,754			5	1
North Atlantic Region					
Cape Cod	43,556			8	3
Pacific Northwest Region					
Crater Lake	183,224	44	682	21	5,402
John Day Fossil Beds	14,014			3	15
North Cascades	504,781	58	231		
Olympic	921,935	3	179		
San Juan Island	1,752			3	1
Whitman Mission	98			6	105
Rocky Mountain Region					
Badlands	243,302			5	4,543
Dinosaur	211,142	193	4,176	2	1,441
Fort Laramie	833			4	165
Glacier	1,013,572	4	2		
Grand Teton	310,521	32	7,759		
Rocky Mountain	265,200	6	1,051		
Wind Cave	28,292	6	309	26	7,630
Yellowstone	2,219,785	152	34,140		
Zion	146,598	24	335	5	37
Southeast Region					
Big Cypress	570,000	37	9,829	168	68,253
Biscayne	173,039			4	17
Blue Ridge Parkway	85,993			3	4
Cape Hatteras	30,319			7	99
Chickamauga and Chattanooga	8,103			5	2
Cumberland Island	36,415			8	216
Everglades [1]	1,398,938	337	128,255	245	185,337
Shiloh	3,848			3	11
Southwest Region					
Arkansas Post	389			9	52
Bandelier	32,737	5	34	21	311
Big Bend	735,416	26	462	8	24
Big Thicket	85,774	4	40	33	6,225
Buffalo	94,219			13	285
Carlsbad Caverns	46,755	14	3,063	7	80
Fort Union	721			2	2
Jean Lafitte	20,000			2	77
Lake Meredith	44,978			10	160
Lyndon B. Johnson	1,571			4	109
Sunset Crater	3,040	2	1		
Wupatki	35,253	2	4		
Western Region					
Golden Gate	73,117			6	17
Grand Canyon	1,218,375	81	3,723	19	3,148
Joshua Tree	559,954	4	20	3	12
Lassen Volcanic	106,372	18	9		
Lava Beds	46,560	3	32	4	461
Pinnacles	16,265	8	1,993	86	7,861
Point Reyes	71,046	12	653	57	2,504
Redwood	110,178	2	2	6	135

TABLE 1.—PRESCRIBED FIRE OCCURRENCE, THE NATIONAL PARK SERVICE, 1968–87—Continued

[Data obtained form NPS Wildland Fire Management Computer System, 1988]

NPS units by region	Prescribed Fire				
	Area size acres	Lightning ignitions		Management ignitions	
		Number	Acres	Number	Acres
Saguaro	83,574	36	42	3	105
Santa Monica Mountains	150,000			3	105
Sequoia and Kings Canyon	863,683	384	32,518	48	8,247
Whiskeytown	42,503			8	99
Yosemite	761,170	333	34,998	75	26,802
Totals		1,921	391,538	1,131	334,931

[1] Research begun in 1951.

Table 2—Forest Service Wilderness Fire Management Program History and Accomplishments

(Regions 1 and 4)

The following information is provided for wilderness areas in Regions 1 and 4. These two Regions have the most active wilderness prescribed fire programs in the Forest Service.

WILDERNESS FIRE MANAGEMENT HISTORY, 1972–88

	Number prescribed natural fires	Acres burned	Number that became wildfires	Acres burned	Number wildfires suppressed	Acres burned
R–1	378	160,583	9	324,126	1,402	291,967
R–4	135	49,035	14	219,813	616	550,685
Total	503	209,618	23	543,939	2,018	842,652

TABLE 3. FOREST SERVICE IGNITED PRESCRIBED FIRES IN WILDERNESS

	Year	Number fires	Acres burned
Region 3			
Chiricahua Wilderness	1988	1	608
Region 8			
Bradwell Bay Wilderness	1988	2	3,000
Region 9			
Hercules Glades Wilderness	1987	1	818
Total—All Regions		4	4,424

Note: Some prescribed burning was done in the LaVentana Wilderness in California prior to 1985 as authorized through legislation establishing this wilderness.

Summary of Public Comments on the Fire Management Policy Report

April 1989.

United States Department of the Interior/ National Park Service.

United States Department of Agriculture/ Forest Service.

Introduction

The Fire Management Policy Review Team was established in September 1988 to review national policies and their application for fire management in national parks and wilderness and to recommend actions to address the problems experienced during the 1988 fire season. The goal of the review team is to have improved fire management policies in effect by the end of May 1989.

The team's report was released for public review in mid-December 1988. Responses were received in the form of oral testimony at 11 public meetings held nationwide in February 1989 and letters submitted during the review period. The deadline for receipt of letters was February 21, 1989; however, all letters received by March 3 were coded and summarized. Responses totaled 408 and came from individuals, organizations, governmental entities, commercial firms, chambers of commerce, and academics in 39 states, the District of Columbia, and Canada. Appendix A lists the agencies, organizations, and businesses that responded; appendix B lists the public meeting sites and dates as well as the number of people who attended and who spoke.

Summary Methods

Working together, the National Park Service and the Forest Service coded and summarized the public comments during a two-week period in early March 1989. All written and oral comments were cataloged and stored using a computerized database management system; information on individuals and organizations that submitted comments was also entered into the system. (The number of comments was considerably larger than the number of responses because letters and oral responses generally contained comments on several subjects.) The comments were then reviewed and coded based on category and subject of comment and support for or opposition to the policy and the review team's recommendations. Specific suggestions were listed and coded at this time.

After the database was completed, similar comments were grouped using the database management system, and the grouped comments were summarized. The system was also used to help identify important concerns and issues, determine general opinion trends, compile specific comments and suggestions on the report and recommendations, and summarize

information on individuals and organizations that submitted comments.

The coded comments were not quantified because this was not a voting exercise. Further, most comments contained caveats or qualifiers. For example, many people who indicated opposition to the policy were not totally against it; rather, they disagreed with a part or parts of the policy, or with its implementation, or with some other aspect. Similarly, many supporting comments included reservations ("I support the policy except for * * *") or favored the policy but found fault with the implementation.

A large number of people submitted specific comments and suggestions concerning the review team's report and recommendations. These comments and suggestions are included in appendix C.

Summary Results

Overview

Most people commenting on the fire management policy supported the review team's recommendations concerning the use of prescribed natural fires and planned ignitions under specified conditions, although a substantial number of comments stated that the criteria for prescribed burns are too stringent. Those opposed to the policy for prescribed burns generally felt that it does not adequately consider the risks to property and human safety. Commenters strongly supported the recommendations for increased interagency cooperation and coordination and more research, and many stressed the need for more and better public involvement; most people felt that the policy needed to be strengthened or modified concerning fire management plans, suppression methods and tactics, training, and costs and funding.

General comments about the fire management policy and recommendations are summarized below; more specific comments are included in subsequent sections. A large number of comments were received that dealt specifically with the 1988 fires in the greater Yellowstone area. These comments are included at the end of the summary.

Most of the comments supporting the report indicated that the review team's recommendations were in-depth, complete, and sound. Many people commented that they were expecting a more politicized report and were pleasantly surprised with the objectivity of the recommendations. A very large number stated that they were glad to see fundamental natural fire policy "reaffirmed" by the recommendations. Many cautioned that agencies and policy makers should not overreact to the fires of 1988; one person stated that "the summer of 1988 was both inevitable and unprecedented in Yellowstone's recorded history. Thus, policy revisions based on last year's events will be invalid for many years to come."

Of the people opposing or disagreeing with the team's recommendations, a large number categorized the report as too narrow in scope, too generalized, and "fraught with bureaucratic jargon." Many people claimed that it failed to clearly pinpoint problems and managerial deficiencies and was difficult to respond to because of the generalizations and bureaucratic style of writing. Other felt that the lack of substantiating evidence, analysis and quantification detracted from the credibility of the report. One commenter indicated that the lack of specific guidelines or directions severely limited the report's value. Another noted that the process used by the team to arrive at the findings was not addressed in the report. Several people felt that the report treated fire policy as an isolated issue and failed to take into account other management policies, land management plans, and the Wilderness Act; these people thought that changes in fire management policy might require changes in other land use decisions.

There were a significant number of comments that supported the current policy and recognized the role of prescribed fire in western forest ecosystems but felt that the manner of implementing that policy needed investigation and change. Some felt that decisions regarding fire programs should be made locally, "not in Washington."

Opinions were mixed regarding policy and the concerns of people living near parks and wilderness areas. A number of commenters felt that the policy must consider the potential impacts on surrounding communities and landowners; others felt that the concerns of local business people should not influence fire policy. One person recommended establishing fire agreements between the parks and neighboring private landowners; one suggested the creation of local fire districts that would establish policy for all lands within their geographic borders.

A number of the respondents felt that the public meetings were not adequately advertised, and that there were too few of them across the country to enable many people to attend. Some indicated that copies of the report were difficult to find, and one person said that if the agencies were serious about public participation, they needed to make it easier for people to participate. (See appendix B for the methods used to publicize the meetings.)

Prescribed Natural Fires and Planned Ignitions

Comments were generally in favor of prescribed natural fires and planned ignitions in parks and wilderness areas. A significant number of people felt that there should not be so many restrictions on prescribed fires—that too few natural fires are allowed to burn—and many objected to the specific criteria required in the recommendations for limiting the size and number of fires. A large number of people were concerned that specific size limitations on fires within management plans would, at great cost, require managers to reclassify fires as wildfires that were otherwise within prescription and meeting management objectives. Many commenters opposed the suggested moratorium on prescribed natural fires, regarding it as an unnecessary overreaction to last summer's fires. Others objected to the daily certification required in the recommendations; one felt that it could defeat its own purpose by becoming too routine.

Many people expressed support for the use of more planned ignitions. A significant number were puzzled by what they considered to be the agencies' over-reliance on natural ignitions for prescribed fires. Many felt that timely man-caused ignitions might be a way of avoiding the yearly "boom or bust" situation in wildland fires. Some commenters encouraged agencies to allow unplanned human-caused ignitions to burn if they are otherwise within prescription.

A number of people who commented on the use of prescribed fire emphasized the need for defensible prescriptions and early public involvement. Many stated that fires should be closely monitored and controlled to avoid property damage and that the government should notify property owners in advance of prescribed burns.

Some people felt that we should consider alternatives to burning that better utilize our natural resources, such as logging. Several suggested using livestock to keep the fuels down, and some thought that mechanical treatments are appropriate.

A number of commenters expressed opposition to what they called the "let-burn" policy because, as one person put it, "it is as much a non-policy as it is a policy." These people said that the policy implies that the place, time, conditions, and methods of control have not been predetermined and suggests that man has no managerial

responsibility and places theories first and concerns of the public, parks, and resources last.

Other comments included the following:

Prescribed natural fire is preferable to planned ignition.

Prescribed natural fire shouldn't be done under last year's conditions.

Prescribed natural fire should be used around developed areas in parks, but should be controlled and managed properly.

Prescribed natural fire is appropriate as long as consideration is given to fire behavior factors, topography, density and type, fuel moisture, weather conditions, source, 1,000-hour fuels, and regional drought indices.

Comments concerning fire in wilderness areas were generally in favor of using prescribed fire to restore the landscape mosaic and increase wildlife diversity. One person wrote that prescribed fire should be used in wilderness only to improve wildlife habitat; another was concerned with how fire fit with the concept of wilderness. One commenter stated that "federal agencies have a duty to preserve the wilderness character of designated areas and to use the least disruptive means available to carry out this task." The comment further indicated that if suppression of wildfires interferes with a fire-dependent ecosystem, then the Forest Service is in violation of a legal mandate to preserve the natural character of the wilderness.

Several comments stated that a "no management" concept has seriously degraded wilderness resources, and management plans should be developed. One commenter supported legislation that will "require control of fire, noxious weeds, insects and diseases where they pose a threat to adjacent multiple-use areas and private property on the wilderness area itself." Another person specifically stated that management plans should be in place before allowing nonprescribed fires to burn out.

One commenter supported planned ignitions in wilderness to reduce the fuel buildup and restore (fire-generated) heterogeneity, which influenced the size and shape of natural fires prior to 1900. Another felt that Forest Service policy for planned ignitions in wilderness is so stiff that "it is essentially impossible for such burns to be a part of wilderness."

Fire Management Plans

Of the people commenting about fire management plans, the great majority felt that the recommendations needed to be strengthened concerning how to carry out and implement planning and what the plans should contain. Many people had specific comments. Among them:

The plans should be prepared by qualified, certified, experienced personnel, including fire behavior specialists.

They should be implemented consistently by the various government entities covered by the plan.

They should be specific, yet flexible.

They should prescribe for minimum impact in suppression techniques.

They should balance the role of natural fire against threats to natural resources, watersheds, scenic and recreational values, public safety, and property.

They should consider businesses on park boundaries but should not prohibit the use of prescribed burning because trade might be reduced during the burn; restricting burning could increase later risk.

They should incorporate state smoke management plans.

A number of people also expressed the opinion that decisions involving containment should be made by trained, professional experts using documented management procedures and that competent, professional managers should be in charge and should be held accountable for their actions. One person recommended using the same process for approving prescribed fire as is used for approving forest plans—through amendments—and pointed out that one of the keys to the amendment process is public involvement.

One commenter had several questions for consideration:

Can fire plans, in fact, be written to accommodate the level of detail which is recommended by the review?

Can managers really be expected to foresee the consequences and cumulative effects of all possible fire scenarios?

And, if they are required to do so, will the ultimate result then be much more fire suppression in the future than we have had in past years?

And what will be the environmental and economic effects of these increased suppression efforts?

Suppression Methods and Tactics

A number of commenters supported the concept of "light hand on the land" in managing wilderness fires. Quite a few, however, felt that this concept was worthless without further definition and stronger guidelines accompanying it. They felt that everyone from firefighter to the highest line officer must clearly understand what minimum impact on resources means. Some people felt that if "light hand" tactics are used, specific interagency guidelines are needed. The existing National Interagency Incident Management System (NIIMS) was suggested as a useful framework for interagency cooperation.

Of those who disagreed with the "light hand on the land" concept, many felt that the policy needed to be reviewed or reconsidered. A number of people indicated that although this policy may be environmentally sound for large areas under government control, it is inappropriate where there is a mix of landownership or where substantial economic benefits are derived by local communities. The "light hand" approach was also seen as inappropriate for many large wildfires.

There were a number of objections to using political boundaries as fire breaks, as suggested in the recommendations, rather than biological boundaries. Suggestions included using roads, lakes, rivers, and topographic divides. One person felt that if we wait until a fire reaches a park or wilderness boundary before declaring it a wildfire, we may not have the opportunity to take successful suppression action. Another said that fire breaks along boundaries could become an obstacle to future additions to wilderness areas.

A large number of commenters expressed opposition to building roads into roadless areas for suppression of fires. One stated that under no circumstances should there be timbering or road building in wilderness. Some favored the use of heavy equipment as a suppression tactic, some opposed it.

Post-fire activity was recommended, that is, continuing efforts in monitoring and controlling earth movements, debris, flooding, and wildlife food loss. In regard to revegetation, one person felt that it is "entirely inappropriate"; others thought that minimal reseeding and replanting should be done, several specifying along roadways, near facilities, and in recreation areas and some recommending native grasses and trees.

Many of the comments about firefighting tactics dealt with the need for improved communications between managers and front-line officers. It was perceived that in Yellowstone last year there was a general lack of communication concerning suppression activities.

Training

Although some commenters commended firefighting personnel and their efforts, a great number of suggestions dealt with getting additional training for personnel at all levels, perhaps by the military. Some were specific, calling on the agencies to

strengthen training of firefighters so that they recognize and react to extreme weather conditions and use proper suppression techniques. Some saw a need for specialized personnel such as hotshot crews; others favored the utilization of local personnel.

Interagency Cooperation

A recurring comment was a call for increased cooperation and coordination among federal and state agencies where fires could cross administrative boundaries. Saying "an individual park is not an isolated, pristine, ecological bubble," one respondent echoed the thoughts of many by emphasizing the need for interagency coordination, cooperation, and communication. These comments were made in reference to the 1988 fires as well as to developing fire management plans. Many stressed the importance of including state and local fire agencies and state wildlife agencies in planning. A few commenters stated that a "unified" federal policy is essential to fire management; some went even further to suggest that there be one federal fire management agency.

Public Information and Involvement

Many commenters stressed the need to strengthen public information and involvement. There was also a general feeling that public information programs should include education aimed at improving awareness of fire management as an ecological tool.

Specific comments on public information and involvement included the following:

Clearly state the fire policies for specific areas; people should not be led to expect protection when none is planned.

Improve information to the public before, during, and after fires; include data on how decisions were made.

Implement NEPA compliance and public review.

Provide better opportunities for public involvement during formulation of fire management plans (community advisory boards were recommended for this purpose).

Develop common terminology to convey information to the public.

Several people felt that the report's recommendation on public interpretation must be strengthened—that last summer the news media and the majority of the public showed little understanding of wildland fire policy and could not differentiate between it and policies relating to general fire suppression.

Many commenters thought that public information officers should be better informed, saying that they did a poor job on the 1988 fires. A specific idea was to develop a cadre of fire information officers who know and understand the fire business, both prescription and wildfire. Some called for better funding for interpretation as well as accurate, in-depth, and timely information before, during, and after fires.

A number of people said that the team failed to acknowledge the long-term influence of public information campaigns promoting fire suppression, in particular Smokey the Bear, and that such information has contributed to the public's ignorance of the benefits of fire and consequently restricts public acceptance of prescribed fire as a viable management tool.

Several comments indicated that the public also does not understand the social effects of fire or the feasibility and effectiveness of suppression actions. They stated that correcting this lack of public knowledge on the benefits of fire is imperative and recommended that an education program be launched to counter Smokey's message and teach the value of fire.

Costs and Funding

A large number of commenters felt that there is a need for additional funding—for research, for reducing fire potential, for implementing the recommendations, for perpetuating natural and wilderness ideals, and for presuppression (with mention of training for firefighters, fuels management, and controlling prescribed burns).

Many comments concerned the high cost of fighting fires, in dollars, lives, and resources. A number called for a review of costs, demanding accountability as well as a reduction in expenditures and maximizing the use of suppression money. Some said that costs versus benefits of fire control should be addressed by the decision makers. One writer put it simply, "I think money being spent on fires that are not threats is a lack of good financial spending," and questioned motives in putting out fires when the resources saved are not worth the suppression costs. Many comments addressed the protection of structures and other facilities and indicated that it is "foolish" to spend millions on structures worth only thousands; some felt that "localized pre-attack" and fuel reduction around developments are appropriate actions. A few commenters stated that agencies should actively discourage development in parks and should phase out existing developments within and bordering parks. One person suggested better zoning to keep buildings out of fire-prone areas "so we don't waste money on needless suppression."

A number of commenters discussed the manner in which fires are being paid for. Recommendations included not using firefighting funds for unplanned ignitions and not using timber and mineral receipts for future fire costs. There were equal numbers of comments for and against using Knutsen-Vandenberg funds from the timber program. One person stated that planning and presuppression activities should be financed by program funds rather than emergency fund transfers and supplements.

Research

The team's recommendations regarding more research received numerous positive responses, with people calling for increased research and development of advanced technology for predicting, fighting, and monitoring fires. Specifically, many commenters felt that the dynamics of stand replacement fires were poorly understood and needed increased research emphasis. Others felt that increased research on fire dynamics must be coupled with more study of fire effects on vegetation and wildlife. One person was less confident regarding the utility of additional research, stating that he had "grave concerns with assumptions that man can ever manage wildland fire, simulating a natural process we have not nearly begun to understand."

Some people advocated additional research on fuel and weather, fire behavior, exploration and use of new and different firefighting techniques (including those that do not involve heavy intrusion and costly intervention), analysis of forest types, fire history and occurrence in times of drought, and the use of geographical barriers as fire breaks.

Greater Yellowstone Area

Almost all of the commenters expressed opinions on the Yellowstone fires and how they were managed. These comments have been consolidated and summarized for reference in evaluating fire policy and the review team's recommendations.

Concerning fire suppression activities, many people commended Yellowstone's firefighters and management for doing a good job and taking proper action, particularly in saving historic structures. However, there were also many negative comments, which centered on faulty objectives; a lack of communication at all levels; a lack of clear chain of command, especially

interagency; and a reluctance of some individuals to apply full suppression tactics. An alternate view on the last point was that political pressure replaced logic at the management level by demanding full suppression. One person suggested that it would have helped if Yellowstone had had a prescribed burning program. Two comments indicated that the Forest Service should have used local resources and knowledge more effectively; although good commanders were seen at the unified area command, it was felt that NPS management should also have been included. The military was described as ineffective because crews and aircraft were not assigned to individual fires. Endangerment to firefighters' lives was criticized, as was the lack of ability to control fires of this magnitude, particularly by the methods used.

Several commenters expressed concern about the firefighting tactics. Some thought suppression efforts should have begun earlier, particularly given the extreme weather conditions, the difficult topography, and heavy fuel loads. Several people commented that damage to soils and vegetation was far worse from suppression than from the fires. A number were concerned that air pollution caused by the fires exceeded federal air pollution requirements, causing severe respiratory ailments and adversely affecting crops and livestock.

There were split views on the relationships and responsibilities of federal land managers and nearby landowners and residents. A large number of commenters felt that, in general, fire management officials in the greater Yellowstone area demonstrated a complete disregard for the health, safety, and livelihood of those in the surrounding communities and that homes and businesses should have been protected. Some felt that commercial operators should have had preference in sustaining their livelihood; a number supported compensation to concessioners, agriculturalists, timber companies, and other business people and homeowners whose properties were threatened or destroyed by the fires. On the other hand, many commenters felt that the concerns of local business people and landowners should not influence fire policies and that people who choose to live in a "dreamland vacation spot" should not receive compensation of any type. Several stated that adjacent communities that are financially dependent on the users of public lands must accept the negative aspects as well as the benefits of their location. An example comment: "Structures that are built in forested wildland ecosystems are knowingly placed in harm's way. They are at their own risk and society does not owe them fire protection." Some people went even further, saying that those who lost property should reimburse the government for the money spent trying to protect them.

Several commenters saw the need for a promotional campaign for Yellowstone, to convey to the public that it was still a top recreational place to visit. One wrote: "We believe very strongly that the Federal Government, through the Departments of Agriculture and Interior, has an obligation to cooperate with the surrounding states and communities to help mitigate the impact of the unprecedented media coverage afforded the Greater Yellowstone Fires of 1988. This cooperation should take the form of hard dollars for marketing and promotion of the 'new' Yellowstone story." Another wanted the government to commit $1 million a year for five years to promote travel to Yellowstone and also called for the federal departments to coordinate with state travel commissions and gateway chambers of commerce.

There were a few comments that pertained to nonfire issues in Yellowstone National Park and the Yellowstone ecosystem. Several people said they would like to see the Yellowstone ecosystem managed as a whole without administrative boundaries. Others said that there was a need for better coordination between the Park Service and Forest Service in managing fires and wildlife habitat. Some people felt that the park was not being properly managed and that management policies should be reassessed.

Appendix A: Comments Received

Written and oral comments were received from the following government agencies, organizations, and businesses.

Congressional

Subcommittee on National Parks and Public Lands
Senator Steven Symms
Senator Malcolm Wallop
Senator Alan Simpson

International

Canadian Embassy

Federal Agencies

United States Department of the Interior
Bureau of Land Management
Bureau of Indian Affairs
National Park Service
Arkansas Post National Memorial
Bandelier National Monument
Big Thicket National Preserve
Big Bend National Park
Buffalo National River
Chickasaw National Recreation Area
Curecanti National Recreation Area
Guadalupe Mountains National Park
Hot Springs National Park
Indiana Dunes National Lakeshore
Jean Lafitte National Historical Park and Preserve
Lassen Volcanic National Park
Lyndon B. Johnson National Historical Park
Sequoia/Kings Canyon National Parks
Southeast Regional Office
Southwest Regional Office
Statue of Liberty National Monument
Wupatki/Sunset Crater National Monuments

United States Department of Agriculture
Forest Service
Boise National Forest
Custer National Forest
Gallatin National Forest
Kootenai National Forest
Nez Perce National Forest
Region 1
Region 3
Region 5
Region 6
Sawtooth National Forest

United States Environmental Protection Agency

State and Local Agencies

Alaska Department of Natural Resources, Division of Forestry
California Department of Forestry and Fire Protection
California State Board of Forest Fire Fighting
Cody Chamber of Commerce, Wyoming
Commonwealth of Virginia, Office of the Governor
Commonwealth of Massachusetts
County of Park, Wyoming
County of Musselshell, Montana
Five County Association of Governments, Utah
Florida Department of Natural Resources
Illinois Department of Conservation
Mississippi Forestry Commission
Missoula Fire Department
Nebraska Forest Service
New Jersey Department of Environmental Protection
Oregon Forestry Department, Office of State Forester
Park County, Colorado
Shelby County Environmental Improvement Commission
State of Wyoming, Office of the Governor

State of South Carolina, Office of the Governor
State of Alaska, Office of the Governor
State of North Dakota, State Fire Marshall
Texas Forest Service
Upper Grant Creek
Wyoming Game & Fish Department
Wyoming Travel Commission
Wyoming House of Representatives
Wyoming State Forestry Division
Wyoming State Archives
Wyoming Economic & Development Stabilization Board
Wyoming Public Service Commission

Academics

California Institute of Technology
California Academy of Science
Colorado State University
Michigan State University
Montana State University
Tall Timbers Research Station
Teton Science School
University of Montana
University of Minnesota
Western Montana College

Organizations

America Wilderness Coalition
American Farm Bureau Federation
American Sheep Industry Association
Association of National Grasslands
Blue Ribbon Coalition
California Farm Bureau Federation
California Wilderness Coalition
Cody Lumber Company
Contra Costa Resource Conservation District
Contract Fire Fighting Appropriate Design
Dubois Alliance
Earth First!
Florida Wildlife Federation
Florida Farm Bureau Federation
Forests Unlimited
Foundation for North American Wild Sheep
Greater Yellowstone Coalition
Idaho Farm Bureau
Idaho Outfitters & Guides
Idaho Conservation League
Inter-Mountain Forest Industry Association
J.H. Outfitters & Guide
Jackson Hole Alliance
Montana Audubon Council
Mother Lode Miners Association
Mountain States Legal Foundation
National Forest Products Assocation
National Association of Conservation District
National Campers & Hikers Association
National Association of State Foresters
Nevada Farm Bureau
Northwest Wyoming Resource Council
Northwest Independent Forest Manufacturers
Pahaska Tepee
Public Lands Committee
Public Lands Foundation
Public Lands Council
Public Land Users Association
Public Lands Foundation of Billings, Montana
Public Timber for the Timber Association of California
Rangeland Consulting
Rural Alaska Community Action Program
Sacred Pipe Indian Mission
Sierra Club
Sierra Club, North Plains
Sierra Club, Montana Chapter
Sierra Club Legal Defense Fund
Snake River Audubon Society
Society of American Foresters
Stone Forest Industries, Inc.
Teton County Heritage Society
Uinta County Farm Bureau
Western Mountain Fish & Game Assocation
Western Wood Products Assocation
Weyerhauser, Corporate Headquarters
Wilderness Society
Wildlife Society, Idaho Chapter
Wildlife Society, Wyoming Chapter
Wind River Multiple Use Advocates
Wyoming Farm Bureau
Wyoming Wildlife Federation
Wyoming Heritage Society
Wyoming Travel Commission
Wyoming Outfitters Association
Yellowstone Park Preservation Council

Appendix B: Public Meetings on Fire Management Team Recommendations

A total of 750 people attended the 11 meetings, and 127 spoke.

Meeting location	Date	Number attending	Number speaking	Method of public notice
Missoula, MT	2/1/89	63	19	Press release sent to 825 on the press release mailing list (print media, radio, and TV), mostly in Montana, North Dakota, and South Dakota. Legal ads ran in nine major newspapers in Montana and Idaho.
Tallahassee, FL	2/1/89	41	9	Press release sent to about 300 contacts on mailing list, including statewide newspapers and radio and TV stations. The three stations in Tallahassee were contacted in person. Legal ads ran in local area newspapers.
Sacramento, CA	2/1/89	42	9	Press release sent to about 50 newspaper, radio, and TV outlets around the state. Legal ads ran in San Francisco Chronicle, San Francisco Examiner, Sacramento Bee, and Redding Record-Searchlight.
Washington, DC	2/2/89	34	3	Press release sent to regular distribution list, which includes newspapers, wire services, radio, and TV.
Denver, CO	2/6/89	20	3	Press release sent by the Rocky Mountain Regional Office (Park Service) to approximately 300 organizations, advisory committees, newspapers, and radio and TV stations in Montana, North Dakota, South Dakota, Wyoming, Utah, and Colorado.
Jackson, WY	2/7/89	125	18	Publicity handled by Denver office, National Park Service. Nothing additional was done by Grand Teton National Park locally.
Anchorage, AK	2/7/89	20	5	Press release sent to about 200 radio and TV stations, newspapers, conservation groups, other agencies, etc., and to libraires that post the information. Legal ads ran in the three largest dailies.
Idaho Falls, ID	2/8/89	65	20	Press release sent to all media in Idaho, Washington, and Oregon. Legal ad ran in the Idaho Falls paper one day.
Seattle, WA	2/9/89	25	3	Press release sent to all media in Idaho, Washington, and Oregon from the Seattle office. Legal ad ran in the Seattle Times and Post Intelligence for one day.
Albuquerque, NM	2/9/89	20	3	Press release sent to all New Mexico media. Legal ad ran in the Albuquerque Journal February 6, 7, and 8.
Cody, WY	2/14/89	300	37	Press release sent to local radio stations (5) and newspapers (4). Legal ads ran in two local newspapers.

Appendix C: Comments and Suggestions on Specific Parts of the Report

Summary

The first item in the summary, "The Objectives of Policies * * *," is not supported by the report. The objectives of the Policies cannot be sound when the Policies themselves are not.

Summary, column 1, paragraph 3—The objectives of the policies governing prescribed natural fire programs were not stated, except as inferred here and there in the report text. Until clearly stated and subjected to review by interested parties, describing them as "sound" is premature and may be highly inaccurate.

Findings

6—Because the Team never determined whether the Yellowstone fires of 1988 could have been successfully controlled, and ignored the contribution of past fire suppression to the magnitude of these fires, Finding 6 is unfounded.

10—The Team failed to address the quantity of water and its impacts.

11—Paragraph 4, "The primary message communicated * * *"—This is the perfect example of how arbitrary limits within a prescription can create contradications. It is highly inconceivable for a prescription fire with positive biological values to cross an arbitrary or prescription value and be declared a wildfire (bad) and yet the effect of fire on-site is unchanged throughout.

13—If incident commanders received unclear direction about the use of certain suppression tactics, was this a failure to clarify or a result of line officers not being sufficiently trained or knowledgeable regarding suppression tactics?

Recommedations

1—What will define a "legitimate prescribed fire program?"

1—The Team fails to tell us how those policies should be changed and what limitation should be imposed.

2—The Team fails to state how precise the constaints for prescribed fires are.

2—For the most part, the policies are well understood by most fire personnel, but perhaps not so well understood by some managers.

3—This type of review should be a standard operating procedure.

4—This change is unrealistic and more a semantic than effective change.

4a—We are in basic agreement, but differences in basic management directions among the Forest Service, Park Service, and BLM need to be acknowledged in all planning and coordination. As an example, while present Park Service management direction does not concern itself with timber harvesting, coordinated planning and policies need to be concerned with protection of the commercial timber harvest base. Fires originating in the Park could destroy this base as it did on the Shoshone during the 1988 fire season.

4a—We would strongly encourage development of permanent legislation permitting reimbursement. Such legislation would more fully realize the intent of the Canada/US Reciprocal Forest Fire Fighting Assistance Arrangement.

4b—Items 1–7—Contemplating establishing limits of numbers of fires within an administrative unit and size of fires would be very arbitrary and an artificial constraint. The proper use of the other criterion suggested already covers the situation.

4b—Some very specific recommendations, such as those contained in Recommendation 4b, should be eliminated. The detail is inconsistent with other recommendations and they duplicate a role more appropriate to the task force.

4b—I urge that the committee report be broadened to include the following specific suggestions regarding its recommendations and unresolved issues: Recommendation 4(b): Add a part 8 to read: "Potential Impacts to natural communities and processes caused by preventing fire from acting as an agent of change."

4b(5)—Needs clarification.

4b(7)—We are concerned * * * that Recommendation 4b(7) could lead to excessive restrictions on the National Fire Program.

4f—Add a phrase encouraging development of a concept of values to be gained due to presence of a prescribed natural fire: "(f) Clearly stating the management objectives being addressed by the prescribed natural fires program, including identification of specific values gained as a result of allowing natural fire to burn unsuppressed within the prescription conditions and areas."

4g—Does public involvement and coordination with local government refer to plan development or plan implementation?

5—Are the contingency plans developed independently or cooperatively by the agencies? Will the activities of one agency affect the operations of another agency?

5—If we miss our acreage estimate, is control mandated? Size of fire should not be the only input in selecting tactics and strategy.

6—We question the implication in recommendation No. 6 that a prescribed fire can be "returned to prescription." To most readers, this implies that a prescribed fire can temporarily exceed prescription while avoiding reclassification as a wildfire, which the team earlier states is unacceptable. * * * We recommend that the statement be revised to state that "If the fire exceeds or threatens to exceed prescription and cannot be kept within prescription with available forces and funds, it shall be declared a wildfire and appropriate suppression action initiated."

6—If resources are not available, is a fire out of prescription? Will resources be held from suppression assignments to ensure their availability for prescribed fires? Exactly what will be accomplished by the line officers daily certifying adequate resource availability is not clear other than to show that resource availability was considered. Other things which should be considered are just as important, i.e. off site effects, public safety, etc.

7—The use of planned ignitions within wilderness to treat fuels would likely involve a lengthy NEPA and appeals process here in this region but at least in some cases it may well be worth the effort.

7—One should include evaluation of whether planned ignition burning would really stop wildfire or even reduce the habitat's flammability, with specificity for each plant community. Also, management objectives are not defined. Is this letting the natural process happen or is it manipulation?

7—We are concerned with Recommendation 7 to use planned burning and other efforts to create fire breaks along the boundaries. Land unit boundaries are often political, but not biological boundaries.

7—The option should be retained to conduct planned ignitions for fuel treatment purposes along defensible boundaries inside or outside of wilderness are not necessarily on administrative boundaries.

8a—Will this happen by making it a training requirement or selection criteria? If the latter is done, it could tend to affect affirmative action, so be careful.

8c—Finding qualified people will be difficult. This review item needs to be further thought out.

8—Add a subparagraph (g) to encourage keeping a balanced program: "(g) In meeting this recommendation, agencies will not reduce existing funding

and personnel capabilities regarding natural resource management and research. Rather, agencies will seek to increase those capabilities to ensure their contributions to natural resource decision making and program implementation remain in balance with the increased capability for fire control."

9c—[This] concerns agencies developing joint criteria for selecting appropriate suppression tactics in the wilderness and parks. The phrase "minimal impact" should be inserted after "appropriate".

9c—It is not clear exactly what this statement means.

9d—Are we talking about improved understanding within agencies, between agencies, by the public, or all three?

10—Does this mean we have to make a determination if the NEPA process was adequately followed for plans presently approved?

10—Recommendation 10 implies NEPA process is not always followed, and doesn't acknowledge USDA's land management planning process and public involvement that occurs.

11—We concur with recommendation No. 11 concerning improved interpretation but feel that it should be strengthened. It really doesn't stress the critical need to develop and execute the proactive interpretation and public education which is needed to counter the incredibly successful "Smokey the Bear" program of the last few decades—which now seems to be providing us with negative problems as well. We feel that messages such as the "Light Hand" concept have not been adequately presented to the public in terms of positive impacts upon the environment, savings in tax dollars, etc., and that the same long-term energy must be put into these messages as the previous suppression messages received.

12—An excellent recommendation in that wilderness prescribed fire programs are not funded at a level to support the entire program.

12—Long-range fiscal planning will be difficult, since the fire potential varies with region, weather patterns, fuel conditions, and a variety of other factors. We don't see any practical way of avoiding the need for emergency and/or supplemental funding.

13f—Although this recommendation correctly recognizes that smoke and air pollution are important considerations for fire prescriptions, the policy should not lose sight of the benefits of controlled burning.

Issues Needing Further Analysis

3—This issue statement needs to be broadened to ensure a balanced assessment of the relationship of fire management programs to other agency programs. Rewrite to read: "Determination of the effect of budgetary constraints and funding sources on fire management programs and on the relationship fire management program needs in comparison to the needs of other equally important natural resource program components."

Other Comments and Suggestions

Overview

The report didn't differentiate between varying operating procedures and policies of different agencies, but made general statements, leading the reader to believe they operate the same.

The report doesn't reflect the integration of the total fire management program, i.e., prescribed and wildfire policies, and organization and management, including the interagency cooperative fire community.

Adoption [of the policy] will compromise progress Alaska agencies have made with our interagency fire management program. * * * The review addresses only national parks and federally designated wilderness areas. In Alaska, a comprehensive interagency fire management plan organizes fire protection levels by resource values and natural fuel breaks across administrative boundaries on all ownerships. Proposed policies vary among federal land agencies and will present difficult operations requirements. We urge you to consider a standard policy for all federal land.

The fire management program would be enhanced by developing a better understanding of agency objectives, fire planning standards and decision criteria. In addition, an inventory of forest types and location subject to infrequent but intense large fires, their historic occurrence in terms of drought cycles, and definition of policies to be applied to each case relative to the desired results should be developed as soon as possible.

The recommendations contain no discussion of relationship between land management objectives for an area and fire protection objectives.

Within the policy we've got to establish a stronger set of guidelines for determining the relevant benefits of suppression versus allowing a prescribed fire to burn or in some cases a wildfire—at least if not to burn freely, to burn under somewhat less totally controlled conditions than might otherwise occur.

The goal of fire policy should be preserving forest ecosystems rather than preventing fire per se. Concessionaires should be notified of this policy, and that government fire protection for their buildings will be very limited. The $150 million the government spent fighting the Yellowstone fires was a waste of money and another addition to our momentous federal budget deficit.

The report fails to address destruction of natural resources, lost business opportunities, and long-term adverse effects of wildlife. This failure to confront these issues renders the recommendations and the "let-it-burn" policy as irrational, and based on emotion rather than fact.

The fire management policy goal should state "To permit as many lightning-caused fires as possible to burn within the prescribed natural burn area."

The Oregon State Department of Forestry recommends that a National Review be conducted on the "Appropriate Suppression Response" and the "Light Hand on the Land" federal policies, particularly as it pertains to other federal lands, i.e., production grounds, scenic areas, intermingled resources, roadless areas, and special habitats. The review only looked at the fire management policy in national parks and wilderness areas.

Our national parks should be preserved as 100% whole, fully functioning, self-sustaining ecosystems following their own respective cycles and evolutions. * * * Parks should and indeed could serve as more accessible adjuncts to our fledgling and still pitiful wilderness system. They should not be "managed" into safe, fairly predictable Disneylands of plants and human-acclimatized or even human-dependent animals.

Prescribed Natural Fire and Planned Ignitions

If the report is suggesting that fires should be suppressed if they are projected to go beyond a certain size, I disagree. Size by itself is an incomplete indicator of the impacts of a burn. It would be far better to base management decisions upon the ultimate geographic area projected to burn and the impacts on other resources.

Several terms are used which generate questions about proposed operational requirements. These are: "Natural fire," "Prescribed fire," and "Natural prescribed fire." Their meanings are extremely important when defining suppression actions. The national definitions should be compatible with protection categories of Alaska Interagency Fire Plans to protect established management objectives. I urge you to carefully review the definitions.

It should be recognized that occasional high-intensity fires will occur under severe weather conditions. These naturally occurring fires are a potent force for ecological change and play an essential role in maintaining the health and biological diversity of the ecosystem.

The use of prescribed fires to manage wilderness areas is desperately needed. * * * It has been impossible to get federal agencies concerned about the role of fire in natural succession. As a result, crucial habitats for species like bighorn sheep are being lost because of vegetative changes, primarily conifer invasion.

Suggest that the term "human ignited" fires implies all man-caused; and that a better term would be "management ignited," to describe prescribed fires.

I think it would be beneficial to institute a regular prescribed burning program around properties to reduce the likelihood of catastrophic losses where inholdings do occur.

Planned ignition cannot be a substitute for natural fire and be consistent with wilderness objectives. It serves a useful purpose as a supplement or interim measure in attempting to restore natural fuel loadings.

Reduce natural fuels around towns.

Fire Management Plans

We need to be careful not to remove the decision making responsibility from the on-the-ground line officer yet develop and maintain or regain credibility with the public.

It is requested that the Fire Management Policy allow and provide for maintenance of adequate rights-of-way for utility facilities. Staff field inspections have shown that, in many cases, proper tree and fuel clearance has not been maintained in and along these rights-of-way. These rights-of-way must be kept free from trees and fuel to aid in the prevention of outages.

In addition to the current proposal, I recommend that decision criteria be included that will terminate prescribed burning and suppress lightning fires when wildfire conditions exist.

Define what fires we will control and whose methods can be used. Concentrate on initial responses to all fires. Stop profiteering on forest fires.

We need clarification of our role and responsibilities for public safety.

If resource availability other than what is adequate for current prescription becomes a criterion which would result in changing the status to "wildfire", then we might want to allow a return to "prescribed" status when that resource availability changed to more favorable.

The role of fire manager needs to be clarified.

Use consultants—use retired federal employees who have the expertise in fire management and have set up their own businesses. Use them for planning and reviewing plans, for inspections, and for reviews of accomplishment and performance.

The concept of planning for and implementing procedures for fires less than 100% risk-free is not addressed. Risk assessment is a central issue with prescribed burns and should be addressed.

Fire management plans could be improved by developing criteria uniform to all government agencies involved in wildlands management. This would be useful when fires cross administrative boundaries.

The Boise Interagency Fire Center could provide more direction and assistance in the form of a model Fire Management Plan. Such a model would streamline NPS fire management by standardizing in areas such as terminology and the EFSA.

Suppression Methods and Tactics

Private property owners should be allowed the right to protect their property (buildings, facilities, vehicles, livestock, machinery, etc.). This means that these property owners should have every right to respond to fires that they come across.

I am sure that if no possible danger to human life and a treat to towns is concerned, the fire should be left alone, but watched and kept back by a twenty mile radius, in order to be controlled with enough time.

Fires need to be managed under the theory that they will jump administrative boundaries, not in the hope that they won't.

We need an attitude change with regard to sheller deployment. There is a serious negative connotation connected with shelter deployment. This caused unnecessary injuries in 1988.

The report glossed over errors in judgment, allegations of poor firefighting procedures, hassles between firefighters and the Park Service, bad management decisions, lack of coordination between agencies.

Manually built firelines should be cut down to the mineral soil and not just through the duff.

If we have mature timber stands that no longer support the kinds of plant and animal life we would like them to support, then open these stands of timber to logging and pile and burn the toppings to satisfy the needs for burn off. This makes use of the wood and renews the forest through regeneration.

Salvage logging should not be allowed in the national park because such would completely interrupt vital nutrient cycles, and in areas of the national forest such as wilderness and roadless areas, steep terrain, salvage logging should be curtailed and closely managed where feasible.

Limiting and controlling access to the forests is another essential tool in protecting against fires, and the fewer portals there are, the easier it is to control.

Training

We need to strengthen training of firefighters in the recognition of and proper reaction to extreme weather conditions.

Special hard hitting fire fighting teams of some 50 persons each should be organized and trained. Several teams should be on hand in each of our large National Parks and be available for emergencies throughout the system. Some 25% would be available for other work such as trail building and structures construction and maintenance.

Interagency Cooperation

There is a need to develop and adopt a unified and coordinated approach to fire management between the Forest Service and the NPS * * * the Yellowstone ecosystem should be managed as such, the entire ecosystem, rather than fragmented because of administrative boundaries.

It may be that some units do not have enough fire activity to maintain skills necessary for the occasional fire bust. We need to institutionalize a system so that a unit with a fire bust can call for fire management help as easily as it calls for another engine or crew.

Public Information and Involvement

The NPS should continue to accept wilderness and environmental education as part of its duties. It is not the responsibility of the NPS to protect the public from natural phenomena such as fire. Instead, NPS should educate the public about the risks they may encounter in dealing with such factors.

The report does little to recommend that Parks containing significant hazardous fuels review their present organization and public relations program.

We suggest improvement and better funded public information and wildland fire interpretation before, during, and after major fires.

We feel there is one aspect of the team's finding that needs to be more

strongly addressed and that is education.

Costs and Funding

The whole cost picture must be examined, including potential costs and damages associated with a prescribed fire that later becomes a wildfire which requires aggressive suppression action. Cost statements must include federal suppression monitoring costs, and cooperating agency increased suppression costs resulting from reduction in local resources. The Department is also concerned with the higher per-acre suppression costs experienced by federal agencies.

We need to put our effort and funding into the relatively cheap action of fire proofing small areas around structures rather than attempting to change the fire history of the entire west.

Sufficient personnel and financial resources should be dedicated to this review task to expedite the process and minimize interruptions.

Research

Fire cycle data is nonexistent for many of the wilderness areas in Wyoming. Collection and analysis of such data, particularly its relationship to different successional stages, should be a prerequisite for preparation of Fire Management Plans and also a high priority for funding.

Recommended continued research and implementation of remote sensing/geographic information system technologies for use in assessing the fuels conditions, prescribing fuels management, and modeling real time fire behavior.

Other research recommendations:

Identify the influence of smoke columns on fire growth and behavior and on spotting.

Identify meteorological thresholds that result in rapid changes of fire behavior.

Develop a system to identify drought conditions that forecasts potential fire season severity.

Verify current fire behavior predictive systems; enlarge database to increase applicability of predictive systems if possible.

Develop or identify models to predict winds over high elevation terrain.

Identify factors causing transition from surface fire to crown fire.

Develop a system for predicting growth of large fires.

Identify the impact of fire exclusion on fire severity and the wildland/urban interface.

Greater Yellowstone Area

The fire team must go back and answer the President's question of the pre-fire management policies which caused the size and intensity of these fires.

We encourage further review and development of alternative means of analyzing the damage and off-site effects of suppression activities as well as of the fires themselves.

The National Park Service and its citizen advocacies should not damand the creation of protective buffers on adjoining lands to insure the continuation of their management philosophy unless they are prepared to accept full accountability for their operational impacts on their neighbors, both public and private.

The report was "unbalanced" to blame managers and fire management policies for the severity of the 1988 fire season.

The greater Yellowstone ecosystem after the fire needs no timber salvaging, no logging, no new access roads, no firebreaks and no new "improvements" for visitors. What it really needs right now is the reintroduction of the Gray Wolf, the removal of the Fishing Bridge development, $120,000,000.00 for land acquisition to match the $120,000,000.00 wasted in August's fruitless public relations effort to stop a needed, natural process and after all of those things are accomplished, it needs, finally, to be left the hell alone to follow its own natural processes without our interference.

Anything you can do to advance the preservation (or even restoration) of Yellowstone in the direction of what it once was rather than in the direction of what the Winnebago set and the periphery of local ranchers, hunters, miners, loggers and developers want it to be I would greatly appreciate. More importantly, so too will posterity.

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Clayton Yeutter,
Secretary of Agriculture.
Manuel Lujan Jr.,
Secretary of the Interior.

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federal register

Friday
June 16, 1989

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System; Transponder With Automatic Altitude Reporting Capability Requirement; Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 25753; Amdt No. 91-210]

Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System; Transponder With Automatic Altitude Reporting Capability Requirement

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective dates.

SUMMARY: This action responds to a petition filed by the Experimental Aircraft Association (EAA), Aircraft Owners and Pilots Association (AOPA), and Helicopter Association International (HAI) concerning Mode S and Mode C transponder requirements. The Mode S transponder aspect of that petition is partially granted herein with a final rule that revises the dates associated with the installation of Mode S transponders. This final rule allows certain aircraft operators to install non-Mode S transponders in aircraft until July 1, 1992, instead of until January 1, 1992, provided that such transponders are manufactured prior to January 1, 1991, instead of prior to January 1, 1990. A manufacturer's comment to the petition which cites a delay in the production of general aviation type Mode S transponders necessitates this final rule action. This action also denies that portion of the petition concerning Mode C transponders.

EFFECTIVE DATE: June 16, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Reginald C. Matthews, Air Traffic Rules Branch, ATO-230, Airspace-Rules and Aeronautical Information Division, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8783. Copies of this document may be obtained by submitting a request to the Federal Aviation Administration, Office of Public Affairs, APA-200, 800 Independence Avenue, SW., Washington, DC 20591; or by calling (202) 267-3479. Communications must identify the amendment or docket number of the document.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 1988, the FAA published in the **Federal Register** (53 FR 52428) a summary of a petition for rulemaking received from the Aircraft Owners and Pilots Association (AOPA), Experimental Aircraft Association (EAA), and Helicopter Association International (HAI). That petition seeks to reduce the size of the area commonly referred to as the Mode C Veil (30-mile radius of a terminal control area (TCA) primary airport) where aircraft are required to be equipped with an altitude encoding (Mode C) transponder. Specifically, the rules the petitioners seek to change require, effective July 1, 1989, that aircraft operating (1) within 30 miles of any TCA or (2) at and above 10,000 feet above mean sea level (MSL) to be equipped with a Mode C transponder (these two requirements are hereinafter referred to as "the Mode C rule"). The petitioners' request would modify the Mode C rule by replacing all Mode C Veils with "buffers" around and below each TCA. Such buffers would be defined as a one-mile area beyond the TCA lateral boundaries and a 500-foot buffer below the TCA floors. Aircraft not having a Mode C transponder would be able to operate outside and below the buffers.

Additionally, the petitioners seek to establish a minimum altitude, higher than that established by the Mode C rule, above which an aircraft must be equipped with a Mode C transponder. Effective July 1, 1989, aircraft used for operations at and above 10,000 feet MSL must be equipped with a Mode C transponder. The petitioners' request would modify the Mode C rule to require such equipment only on aircraft operating above 10,500 feet MSL.

Further, the petitioners requested a delay of certain effective dates associated with Mode S transponder installation. Current regulations require that: (1) Non-Mode S transponders, manufactured after January 1, 1990, may not be installed in an aircraft; and (2) after January 1, 1992, all newly installed aircraft transponders meet the requirements of the technical standard order (TSO) for airborne Mode S transponder equipment (these two requirements are hereafter referred to as "the Mode S rule"). The petitioners seek to allow the installation of non-Mode S transponders in aircraft, provided that such transponders are manufactured prior to January 1, 1994, rather than prior to January 1, 1990, and to continue to allow installation of non-Mode S transponders indefinitely or until the transponder inventory is depleted, rather than until January 1, 1992.

Comments on the Petition

Approximately 12,000 comments on the AOPA/EAA/HAI petition were received in the docket A vast majority of these commenters were in favor of the proposals in the petition. The following is a categorization and discussion of those comments.

Transponder Manufacturer Comments

On December 23, 1988, Bendix/King General Aviation Avionics Division, a subsidiary of Allied-Signal Aerospace Company, petitioned the FAA for an exemption from a perceived non-Mode S transponder-manufacturing termination date. That date, January 1, 1990, is contained in § 91.24 of the Federal Aviation Regulations and indirectly affects the manufacturers of transponders.

On March 16, 1989, representatives from the FAA met with the manufacturer and a representative from its industrial association to discuss the petition. During that discussion, the attendees were advised that the rules pertaining to Mode S transponder installation are not directly addressed to manufacturers. Based on this meeting and discussion therein, the manufacturer subsequently notified the FAA to accept its petition as comments on the AOPA/EAA/HAI petition for rulemaking.

According to the manufacturer, a general aviation type Mode S transponder will not be produced in sufficient quantity to equip the fleet until approximately May 1992. Further, the manufacturer stated, that since an aircraft operator is prohibited from installing a non-Mode S transponder which is manufactured after January 1, 1990, and because there will not be a sufficient stockpile of non-Mode S transponders manufactured prior to that date, an owner of a general aviation aircraft without a transponder may not be able to purchase a transponder. Accordingly, the manufacturer requested that the FAA delay the January 1, 1990, date for one year. However, the manufacturer stated that there will be a sufficient supply of air transport type Mode S transponders to allow Parts 121, 127, and 137 operators to be in compliance with existing regulations.

Upon consideration of the comments received in response to the petition, data supplied by the manufacturer, and information contained in the petition, the FAA finds that the agency's efforts to modernize the National Airspace System would not be compromised by revising the regulations dealing with the manufacturing of air traffic radar beacon system and Mode S transponders. Therefore, the FAA is revising the regulations to allow certain aircraft operators to install non-Mode S transponders until July 1, 1992, provided such transponders are manufactured prior to January 1, 1991.

ATC Radar Coverage

There were comments that questioned why the FAA does not utilize the altitude-determining function of radar systems planned for use in the air traffic control (ATC) system in the near future. Other commenters suggested that the FAA use radar systems such as the 3–D radar system used in the Los Angeles, California, area to detect TCA intruders.

There are no radar systems currently available that provide accurate height information and are suitable for use at terminal radar approach control facilities. The air route surveillance radar–4 (ARSR–4), a new long-range radar system designed for use by both the FAA and the Department of Defense (DoD), is capable of determining and reporting target height. This system is accurate within plus or minus 5,000 feet of true altitude, 90 percent of the time, as measured in any 5-nautical-mile range interval to a range of 175 nautical miles. However, air traffic controllers must provide aircraft vertical separation by minimum of 1,000 feet (or 2,000 feet above 29,000 feet above MSL); therefore, data derived from the height detection function of the ARSR–4 cannot be used to effect such separation. Notwithstanding its height accuracy limitation, the FAA will use the other functions of the ARSR–4 for en route ATC. The FAA must depend on the altitude information derived from altitude encoding transponders until advancements in technology produce a system which can detect true altitude of aircraft with the necessary accuracy and reliability for ATC separation.

Additionally, the FAA recently evaluated a military tactical 3-dimensional radar system (3–D radar) in the Los Angeles, California, area. That equipment was evaluated for possible use in the ATC system. This evaluation indicated that the equipment has several limitations, e.g., it is capable of only 90 degrees of azimuth coverage, and the display is separate from the normal controller display. These limitations make the system unsuitable for ATC.

Controlled Airspace and Availability of ATC Services in the Veil

Some commenters stated that the majority of near midair collisions occurs in controlled airspace and, therefore wondered why the FAA would designate more controlled airspace with the Mode C Veil. Other commenters expressed amazement that the FAA would designate the Mode C Veil when the controllers are already overworked and cannot handle any more traffic.

The Mode C rule did not expand the areas within which ATC services are provided. Further, that rule did not convert any uncontrolled airspace to controlled airspace, nor has the FAA expanded ATC services over those operations in proximity to the affected airports. Aircraft operating in a Mode C Veil need only conduct such operations with a Mode C transponder. By operating with this equipment, the controller is furnished with information on the altitude of most aircraft within the area.

En Route Transponder Requirements

Most commenters supported that portion of the petition which would only require a Mode C transponder for aircraft operations above 10,500 feet MSL. These commenters wanted to preclude pilots conducting such operations in aircraft without a Mode C transponder from being confronted with 8,500 feet MSL as the ceiling for westbound headings. Other commenters stated that the 250-knot speed limit below 10,000 feet MSL and the increased visibility requirement above 10,000 feet MSL precluded the need of a floor below 12,500 feet MSL for the en route Mode C transponder requirement since pilots of aircraft operating below 12,500 feet MSL would be operating either at slower speeds and/or with visibility of 5 miles or more. Such operators, it was argued, would be able to see and avoid other aircraft without intervention from ATC.

While the increased visibility minimum above 10,000 feet MSL does provide a benefit to aircraft operating above that altitude, the FAA believes that the absence of a 250-knot speed limit above 10,000 feet MSL, with its associated impact on a pilot's ability to see and avoid other aircraft, is sufficient basis for a ceiling for en route non-Mode C equipped aircraft operations of 10,000 feet MSL. To illustrate, aircraft operating above 10,000 feet MSL, at speeds in excess of 250 knots and under the jurisdiction of ATC, receive more accurate advisories concerning noncontrolled aircraft when the noncontrolled aircraft is equipped with Mode C. Conversely, noncontrolled aircraft receive indirect benefit of ATC advisories to controlled aircraft when the pilot of the controlled aircraft is aware of the altitude as well as the position of the noncontrolled aircraft. The FAA believes that the elimination of this feature, as requested by the petitioners and supported by commenters, would result in an unwarranted reduction in the level of safety that would be provided by those aspects of the rule that will be implemented on July 1, 1989.

Replace the Mode C Veil With a Buffer

The vast majority of commenters supported the petitioners' suggested one-mile area beyond the TCA lateral boundaries and a 500-foot buffer below the TCA floors instead of the Mode C Veil.

The FAA believes that this aspect of the petition, if adopted, would not provide the desired degree of safety as does the Mode C Veil. If the suggested buffers were to be adopted, a controller could not determine if an aircraft without Mode C equipment is operating in or out of the TCA. Further, the FAA believes that when nearly all aircraft are equipped with Mode C transponders in a laterally defined airspace area, controllers will be provided with continuous and more complete traffic information. This allows altitude, distance, and azimuth information to be correlated and control instructions to be issued to assure that safe distances are provided between controlled and noncontrolled aircraft. In addition, radio communications are reduced as unnecessary traffic advisories concerning noncontrolled aircraft are eliminated when those aircraft are equipped with a Mode C transponder. This is true whether such aircraft are in uncontrolled or controlled airspace. In effect the petitioners' buffers would eliminate the primary safety benefit of the rule by eliminating information on many aircraft below the TCA airspace.

The petition, if adopted, would diminish the high level of safety that the FAA is obligated to maintain, i.e., to maintain the greatest degree of safety for the greatest number of people. Specifically, under the petition, those aircraft without a Mode C transponder operating below a 500-foot vertical buffer or outside a one-mile horizontal buffer in the areas below the actual TCA would still be observed on the controller's radar display as being inside the TCA. However, such aircraft operating within the same areas with the required equipment would appear on the controller's radar display with correlated altitude information.

Alternatives to the petition.

The FAA revisited various options which were considered during development of the amendment as well as several alternatives to the TCA-related proposal contained in the petition. Various configurations which would allow aircraft operations without a Mode C transponder in proximity of a TCA boundary or beneath a specific altitude were considered. For example, limiting the Mode C Veil airspace to that

airspace directly beneath the TCA, eliminating the Mode C transponder requirement in that portion of the Mode C Veil below 3,000 feet AGL between the outermost lateral TCA boundary and the edge of the Mode C Veil, reducing the Mode C Veil radius from 30 to 20 miles, etc. While the number of aircraft affected by the rule would be reduced by each option, the adoption of any of them would result in radar targets being displayed without altitude information on controller radar scopes. Therefore, for the same reasons stated above regarding the petitioner's proposal, these alternatives are also unacceptable.

Other Comments

There were other comments which duplicated comments received during the rulemaking process of Amendment No. 91-203 and which were not relevant to the petition at hand. Those comments expressed concerns regarding impacts on ATC operations and controller workload, ATC automation systems, access to airspace affected by the Mode C Veil, authorized deviations, radar coverage, and equipment costs associated with the amendment. All of these issues were previously addressed in the amendment. However, in regard to access to airspace affected by a Mode C Veil, authorized deviations, and radar coverage, discussion of the FAA's policy governing access to the affected airspace is warranted. That policy pertains to the processing of requests for authorization to deviate from the Mode C transponder requirement in a Mode C Veil. Essentially, air traffic facility managers will give the maximum consideration practicable to such requests to allow pilots of non-equipped aircraft to conduct operations:

1. To, from, and at airports in the fringe of a Mode C Veil.
2. When such an aircraft has an electrical system that cannot power a transponder.
3. When such aircraft have insufficient space available to install the required equipment.
4. In areas of no radar coverage.
5. When an operator has purchased and scheduled installation of the required equipment, during the interim pending installation.

Pilots may contact the appropriate ATC facility or flight standards field office for more detailed information about how to obtain such authorizations. Furthermore, the FAA acknowledges the helpful manner in which various user organizations have volunteered their services and publications to assist the FAA in disseminating information to pilots. Such assistance greatly complements the FAA's efforts to further the pilot's understanding of the regulatory requirements and FAA policies. Some organizations have already published a summary of the FAA's policy governing exceptions to the Mode C Veil requirements.

Conclusion

For the reasons stated above, the FAA is not adopting that portion of the AOPA/EAA/HAI petition that would replace the Mode C Veil with the petitioners' recommended buffers and the raising of the en route altitude above which a Mode C transponder is required. However, regarding the Mode S transponder aspect, the FAA is partially granting the petition by amending the regulations to allow the installation of non-Mode S transponders until July 1, 1992, provided that such transponders are manufactured prior to January 1, 1991.

Economic Evaluation

A full regulatory evaluation was prepared for the final rule in Docket No. 23799 and placed in the regulatory docket. This action to amend the effective dates of one part of that rule does not have a significant effect on the information and conclusions contained in that evaluation. Accordingly, the existing regulatory evaluation remains valid and no further evaluation is required. Also, for the reasons contained in the regulatory evaluation in the docket, I certify that this action will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

For the reasons set forth above, the FAA has determined that this amendment (1) is not a major rule under Executive Order 12291, and (2) is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

The Rule

This rule amends Section 91.24 of the Federal Aviation Regulations relating to the installation of aircraft transponders. The effect of the rule is to allow certain aircraft operators to install non-Mode S transponders in aircraft until July 1, 1992, instead of until January 1, 1992, provided that such transponders are manufactured prior to January 1, 1991, instead of prior to January 1, 1990.

In order to notify those operators most affected by this action, this amendment must be issued prior to July 1, 1989. This does not allow time for publication of a notice of proposed rulemaking for public comment dealing with the issues. For this reason, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. For the same reasons, I find that good cause exists for making this amendment effective in less than 30 days.

Federalism Determination

The amendment set forth herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 14 CFR Part 91

ATC transponder, Automatic altitude reporting equipment and use.

Adoption of the Amendment

For the reasons set out above, the FAA is amending 14 CFR Part 91 of the Federal Aviation Regulations as follows:

PART 91—AIR TRAFFIC AND GENERAL OPERATING RULES—[AMENDED]

1. The authority citation for Part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq; E.O. 11514; 49 U S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. By revising § 91.24(a) to read as follows:

§ 91.24 ATC transponder and altitude reporting equipment and use.

(a) *All airspace: U.S.-registered civil aircraft.* For operations not conducted under Parts 121, 127, or 135 of this chapter, ATC transponder equipment installed within the time periods indicated below must meet the performance and environmental requirements of the following TSO's:

(1) *Through July 1, 1992:*

(i) Any class of TSO-C74b or any class of TSO-C74c as appropriate, provided that the equipment was manufactured before January 1, 1991; or

(ii) The appropriate class of TSO-C112 (Mode S).

(2) *After July 1, 1992:* The appropriate class of TSO-C112 (Mode S). For the purposes of paragraph (a)(2) of this section, "installation" does not include—

(i) Temporary installation of TSO–C74b or TSO–C74c substitute equipment, as appropriate, during maintenance of the permanent equipment;

(ii) Reinstallation of equipment after temporary removal for maintenance; or

(iii) For fleet operations, installation of equipment in a fleet aircraft after removal of the equipment for maintenance from another aircraft in the same operator's fleet.

* * * * *

Issued in Washington, DC, on June 12, 1989.

Robert E. Whittington,

Acting Administrator.

[FR Doc. 89–14299 Filed 6–12–89; 8:45 am]

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federal register

Friday
June 16, 1989

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 30 and 52

Federal Acquisition Regulation (FAR); Cost Accounting Standards Cost Impact Proposals

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 30 and 52

Federal Acquisition Regulation (FAR); Cost Accounting Standards Cost Impact Proposals

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a revision to Federal Acquisition Regulation (FAR) 30.602 and the clause at 52.230–4 to clarify the procedures for submission of cost impact proposals and the authority of the Administrative Contracting Officer (ACO) to withhold a portion of payments when the contractor does not submit the cost impact proposal in a timely manner.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 15, 1989 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4041, Washington, DC 20405. Please cite FAR Case 89–34 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The proposed rule is not expected to have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because the subject of this proposal is administration of the cost accounting standards and those standards do not apply to small businesses. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR sections will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite 89–610 in correspondence pertaining to FAR Case 89–34.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed revision does not impose any reporting or recordkeeping requirements which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 30 and 52

Government procurement.

Dated: June 8, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, 48 CFR Parts 30 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 30 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 30—COST ACCOUNTING STANDARDS

2. Section 30.602–1 is revised to read as follows:

30.602–1 Equitable adjustment for new or modified standards.

(a) *New or modified standards.* (1) The clause at 52.230–1, Cost Accounting Standards Notices and Certification (National Defense), requires offerors to state whether or not the award of the contemplated contract would require a change to established cost accounting practices affecting existing contracts and subcontracts. The contracting officer shall ensure that the contractor's response to the notice is made known to the cognizant ACO.

(2) Contracts and subcontracts containing the clause at 52.230–3, Cost Accounting Standards, may require equitable adjustments to comply with new or modified CAS. Such adjustments are limited to contracts and subcontracts awarded before the effective date of each new or modified standard. A new or modified standard becomes applicable prospectively to these contracts and subcontracts when a new national defense contract or subcontract containing the clause at 52.230–3, Cost Accounting Standards, is awarded on or after the effective date of the new standard.

(3) Contracting officers shall encourage contractors to submit to the cognizant ACO any change in accounting practice in anticipation of complying with a new or modified standard as soon as practical after the new or modified standard has been incorporated into the FAR.

(b) *Accounting changes.* (1) The clause at 52.230–4, Administration of Cost Accounting Standards, requires the contractor to submit a description of any change in cost accounting practices required to comply with a new CAS within 60 days (or other mutually agreed to date) after award of a contract requiring the change.

(2) The cognizant ACO shall review the proposed change concurrently for adequacy and compliance (see 30.202–7). If the change meets both tests, the ACO shall notify the contractor and request submission of a cost impact proposal.

(c) *Contract price adjustments.* (1) The cognizant ACO shall promptly analyze the cost impact proposal with the assistance of the auditor, determine the impact, and negotiate the contract price adjustments on behalf of all Government agencies. The ACO shall invite contracting offices to participate in negotiations of adjustments when the price of any of their contracts may be increased or decreased by $10,000 or more. At the conclusion of negotiations, the ACO shall—

(i) Execute supplemental agreements to contracts of the ACO's own agency (and, if additional funds are required, request them from the appropriate contracting officer);

(ii) Prepare a negotiation memorandum and send copies to cognizant auditors and contracting officers of other agencies having prime contracts affected by the negotiation (those agencies shall execute supplemental agreements in the amounts negotiated); and

(iii) Furnish copies of the memorandum indicating the effect on costs to the ACO of the next higher tier subcontractor or prime contractor, as appropriate, if a subcontract is to be adjusted. This memorandum shall be the basis for negotiation between the subcontractor and the next higher tier subcontractor or prime contractor and for execution of a supplemental agreement to the subcontract.

(2) If the parties fail to agree on the cost or price adjustment, the ACO may make a unilateral adjustment, subject to contractor appeal as provided in the clause at 52.233-1, Disputes.

(d) *Remedies for contractor failure to make required submissions.* (1) If the contractor does not submit the accounting change description or the required cost impact (in the form and manner specified) the ACO may withhold an amount not to exceed 10 percent of each subsequent payment request related to the contractor's CAS-

covered prime contracts, until submission(s) has been furnished by the contractor.

(2) The ACO, with the assistance of the auditor, may also estimate the cost impact on contracts and subcontracts containing the clause at 52.230–3, Cost Accounting Standards. If the ACO determines that an adjustment is required (see 30.602), the ACO shall request the contractor to agree to the cost or price adjustment. The contractor shall also be advised that in the event no agreement on the cost or price adjustment is reached within 20 days, the ACO may make a unilateral adjustment, subject to contractor appeal as provided in the clause at 52.233–1, Disputes.

3. Section 30.602–2 is revised to read as follows:

30.602–2 Noncompliance with CAS requirements.

(a) *Determination of noncompliance.* (1) Within 15 days of the receipt of a report of alleged noncompliance from the auditor, the cognizant ACO shall make an initial finding of compliance or noncompliance and advise the auditor.

(2) If an initial finding of noncompliance is made, the ACO shall immediately notify the contractor in writing of the exact nature of the noncompliance and allow 30 days within which to agree or to submit reasons why the existing practices are considered to be in compliance.

(3) If the contractor agrees with the initial finding of noncompliance, the ACO shall notify the contractor and the auditor of the determination of noncompliance.

(4) If the contractor disagrees with the initial noncompliance finding, the cognizant ACO shall review the reasons why the contractor considers the existing practices to be in compliance and make a determination of compliance or noncompliance. The ACO shall notify the contractor and the auditor of the determination.

(b) *Accounting change.* (1) The clause at 52.230–4, Administration of Cost Accounting Standards, requires the contractor to correct all noncompliances determined by the ACO and to submit a complete description of any accounting change needed to correct the noncompliance.

(2) The cognizant ACO shall review the accounting change concurrently for adequacy and compliance (see 30.202–7). If the change is both adequate and in compliance, the ACO shall notify the contractor and request a cost impact proposal.

(c) *Contract price adjustment.* (1) The ACO shall request a cost impact proposal within the time specified in the clause at 52.230–4, Administration of Cost Accounting Standards, unless prior knowledge available to the ACO or to the auditor discloses that the impact is not material (see 30.602).

(2) Upon receipt of the cost impact proposal, the ACO shall then follow the procedures in 30.602–1(c)(1).

(d) *Remedies for contractor failure to make required submissions.* (1) If the contractor fails to submit the required accounting change or the cost impact proposal (in the form and manner specified), the ACO may withhold an amount not to exceed 10 percent of each subsequent payment request related to the contractor's CAS-covered prime contracts until the submission(s) has been furnished by the contractor.

(2) The ACO, with the assistance of the auditor, may also estimate the cost impact of the noncompliance on contracts and subcontracts containing the clause at 52.230–3, Cost Accounting Standards.

(i) If the ACO determines that the noncompliance results in materially increased costs to the Government (see 30.602), the ACO shall notify the contractor and request agreement as to the cost or price adjustment, together with any applicable interest. The contractor shall also be advised that in the event no agreement on the cost or price adjustment is reached within 20 days, the ACO may make a unilateral adjustment subject to contractor appeal as provided in the clause at 52.233–1, Disputes.

(ii) If the ACO estimates there is no material increase in costs as a result of the noncompliance, the ACO shall notify the contractor in writing that the contractor is in noncompliance, that corrective action should be taken, and that if such noncompliance subsequently results in materially increased costs to the Government, the provisions of the clause at 52.230–3, Cost Accounting Standards, and/or the clause at 52.230–5, Disclosure and Consistency of Cost Accounting Practices, will be enforced.

4. Section 30.602–3 is revised to read as follows:

30.602–3 Voluntary changes.

(a) *General.* (1) The contractor may voluntarily change its disclosure statement or cost accounting practices.

(2) The contract price may be adjusted to voluntary changes if the ACO determines that the change is desirable and not detrimental to the Government.

(b) *Accounting change.* (1) The clause at 52.230–4, Administration of Cost Accounting Standards, requires the contractor to notify the cognizant ACO not less than 60 days (or such other date as may be mutually agreed to) before implementation of the voluntary change.

(2) The cognizant ACO shall review the accounting change concurrently for adequacy and compliance (see 30.202–7). If the change meets both tests, the ACO shall notify the contractor and request submission of a cost impact proposal.

(c) *Contract price adjustment.* (1) With the assistance of the auditor, the ACO shall promptly analyze the cost impact proposal to determine whether or not the proposed change will result in increased costs being paid by the Government. The ACO shall consider all of the contractor's affected CAS-covered contracts and subcontracts, but any cost changes to higher-tier subcontracts or contracts of other contractors over and above the cost of the subcontract adjustment shall not be considered.

(2) Increased costs resulting from a voluntary change may be allowed only if the ACO determines that the change is desirable and not detrimental to the Government. The ACO shall then follow the procedures in 30.602–1(c)(2).

(d) *Remedies for contractor failure to make required submissions.* (1) If the contractor does not submit the notice of a voluntary change or the cost impact proposal in the form and time specified, the cognizant ACO may withhold an amount not to exceed 10 percent of each subsequent payment request related to the contractor's CAS-covered prime contracts, until the proposal has been furnished by the contractor.

(2) The ACO, with the assistance of the auditor, may also estimate the cost impact on contracts and subcontracts containing the clause at 52.230–3, Cost Accounting Standards. If the ACO determines that an adjustment is appropriate, the ACO shall request the contractor to agree to the cost or price adjustment. The contractor shall also be advised that, in the event no agreement on the cost or price adjustment is reached within 20 days, the ACO may make a unilateral adjustment subject to contractor appeal, as provided in the clause at 52.233–1 Disputes.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 52.230–4 is amended by removing in the title of the clause the date "(SEP 1987)" and inserting the date "(JUN 1989)"; by revising paragraphs (a)(3) and (b); by redesignating existing paragraph (c) as (d) and adding new paragraph (c); and by redesignating existing paragraphs (d), (e), and (f) as (e), (f), and (g) to read as follows:

52.230-4 Administration of Cost Accounting Standards.

* * * * *

(a) * * *

(3) For any failure to comply with an applicable CAS or to follow a disclosed practice as contemplated by subparagraph (a)(5) at FAR 52.230-3, Cost Accounting Standards, or by subparagraph (a)(4) at FAR 52.230-5, Disclosure and Consistency of Cost Accounting Practices, within 60 days (or such other date as may be mutually agreed to) after the date the Contractor is notified by the Contracting Officer of the determination of noncompliance.

(b) Submit a cost impact proposal in the form and manner specified by the cognizant Contracting Officer within 60 days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to paragraph (a) of this clause. The cost impact proposal shall be in sufficient detail to permit evaluation, determination, and negotiation of the cost impact upon each separate CAS-covered contract and subcontract.

(1) Cost impact proposals submitted for changes in cost accounting practices required to comply with a new CAS in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) at 52.230-3, Cost Accounting Standards, shall identify each additional standard and all contracts and subcontracts containing the clause in this contract entitled Cost Accounting Standards, which have an award date before the effective date of that standard.

(2) Cost impact proposals submitted for any change in cost accounting practices proposed in accordance with subdivisions (a)(4)(ii) or (a)(4)(iii) at 52.230-3, Cost Accounting Standards, or with subparagraph (a)(3) at FAR 52.230-5, Disclosure and Consistency of Cost Accounting Practices, shall identify all contracts and subcontracts containing the clauses at FAR 52.230-3, Cost Accounting Standards, and FAR 52.230-5, Disclosure and Consistency of Cost Accounting Practices.

(3) Cost impact proposals submitted for failure to comply with an applicable CAS or to follow a disclosed practice as contemplated by subparagraph (a)(5) at 52.230-3, Cost Accounting Standards, or by subparagraph (a)(4) at FAR 52.230-5, Disclosure and Consistency of Cost Accounting Practices, shall identify the cost impact on each separate CAS covered contract from the date of failure to comply until the noncompliance is corrected.

(c) If the submissions required by paragraphs (a) and (b) of this clause are not submitted within the specified time, or any extension granted by the cognizant Contracting Officer, an amount not to exceed 10 percent of each payment made after that date may be withheld until such time as a proposal has been provided in the form and manner specified by the cognizant Contracting Officer.

* * * * *

[FR Doc. 89-14294 Filed 6-15-89; 8:45 am]

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federal register

Friday,
June 16, 1989

Part V

Department of Health and Human Services

Social Security Administration

Privacy Act of 1974; Notice of Computer Matching Programs

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

Privacy Act of 1974; Computer Matching Programs

AGENCY: Social Security Administration (SSA), Department of Health and Human Services (HHS).

ACTION: Publication of Notice of Computer Matching Programs to Comply with Public Law (Pub. L.) 100–503, the Computer Matching and Privacy Protection Act of 1988.

SUMMARY: We are publishing notices of all of the computer matching programs that SSA conducts that are subject to the requirements of Pub. L. 100–503. The purpose of this publication is to meet the reporting and publication requirements of Pub. L. 100–503.

DATES: We filed a report of SSA's matching programs that are subject to Pub. L. 100–503 with the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives and Office of Information and Regulatory Affairs, Office of Management and Budget on June 14, 1989. The matching programs are effective as indicated in each of the notices that appear in this publication below.

ADDRESSES: Interested parties may comment on this notice by writing to the SSA Privacy Officer, Social Security Administration, 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The SSA Privacy Officer at the address above.

SUPPLEMENTARY INFORMATION:

A. General

Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988, amended the Privacy Act (5 U.S.C. 552a) by adding certain protections for individuals applying for and receiving Federal benefits. The law regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State and local government records. The amendments require Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with source agencies;

(2) Provide notification to applicants and beneficiaries that their records are subject to matching;

(3) Verify match findings before reducing, suspending or terminating an individual's benefits or payments;

(4) Furnish detailed reports to Congress; and

(5) Establish a Data Integrity Board (DIB) that must approve match agreements.

Pub. L. 100–503 requires that we implement the above requirements by July 19, 1989.

B. SSA Computer Matches Subject to Pub. L. 100–503

We have taken action to ensure that all of SSA's computer matching programs which were being conducted prior to enactment of Pub. L. 100–503 comply with the requirements of the law. Included below is a listing and brief description of certain matches that SSA will be conducting as of July 19, 1989 or later. Also included in this publication are detailed notices of each of the matches.

(1) SSA State/Local Federal Exchange (SAFE)

Purpose: To enable SSA to determine eligibility for, and entitlement to, Social Security title II Retirement, Survivors, and Disability Insurance (RSDI) benefits and Supplemental Security Income (SSI) payments. Also, to disclose information to Federal, State and local government agencies are required or permitted by Federal law for their administration of income-maintenance and health-maintenance programs.

(2) SSA Matching with State and Federal Prison Records

Purpose: To identify certain prisoners receiving title II RSDI and/or title XVI SSI payments who may be ineligible to receive payments.

(3) SSA Matching with Internal Revenue Service (IRS)—IRS/Supplemental Security Income Record (SSR) Interface

Purpose: To detect previously unreported unearned income and resources for SSI recipients.

(4) SSA Matching with Department of Labor—Part C Black Lung (BL)

Purpose: To detect and prevent Disability Insurance (DI) overpayments.

(5) SSA Matching with State and Federal Workers' Compensation Agencies

Purpose: To determine the amount of DI and BL benefit and SSI payment offset due to receipt of workers' compensation payments.

(6) SSA Matching with Department of Defense, Defense Manpower Data Center

Purpose: To identify SSI recipients receiving military pensions.

(7) SSA Matching with Office of Personnel Management (OPM)—SSR/OPM

Purpose: To identify SSI recipients with unreported unearned income from civil service pensions.

(8) SSA Matching with OPM

Purpose: To identify individuals whose civil service pension benefits must be offset by the amount of Social Security title II Retirement, Survivors and Disability (RSDI) benefits calculated using military service after 1956. The purpose of this match is to identify these beneficiaries. Also, to verify earning data furnished to OPM by civil service retirees and annuitants.

(9) SSA Matching with OPM—Master Beneficiary Record (MBR)/OPM Government Pension Offset

Purpose: To identify auxiliary title II RSDI beneficiaries who also are receiving a Federal Government pension benefit as a retired civil service employee.

(10) SSA Matching with OPM—MBR/OPM Public Disability Offset

Purpose: To identify individuals who are receiving title II DI benefits who are also receiving a Federal Government pension benefit.

(11) SSA Matching with OPM—MBR/OPM Windfall Elimination Provision

Purpose: To identify title II RSDI beneficiaries who also are receiving a Federal Government pension benefit.

(12) SSA Matching with OPM—MBR/OPM Federal Employees Retirement Systems (FERS)

Purpose: To identify civil service retirees who are receiving FERS disability annuities and title II RSDI benefits.

(13) SSA Matching with Department of the Treasury, Bureau of Public Debt Savings Bond Registration Records

Purpose: To identify SSI recipients who have not reported ownership of series E and EE savings bonds, and to determine the impact of bond ownership on SSI eligibility.

(14) SSA Matching with Department of Veterans Affairs (DVA)—MBR/DVA

Purpose: To enable DVA to verify Social Security numbers and adjust veterans benefit rates.

(15) SSA Matching with DVA—SSR/DVA

Purpose: To identify SSI recipients who receive veterans benefits and to update the SSI payment records for unearned income.

(16) SSA Matching with Railroad Retirement Board (RRB)—MBR/RRB

Purpose: To assist in adjudicating claims for benefits under title II of the Social Security Act and programs administered by RRB. Data is exchanged

so that the correct benefit amount can be paid.

(17) SSA Matching with RRB—SSR/RRB

Purpose: To identify SSI recipients who also may receive RRB pension payments.

Dated: June 14, 1989.

Dorcas R. Hardy,

Commissioner of Social Security.

Notice of Computer Matching Program, Social Security Administration (SSA) Matching With State/Local Records in the State and Federal Exchange (Safe) Program

A. Participating Agencies

SSA and State/local governmental agencies.

B. Purpose of the Matching Program

The SAFE match has a two-fold purpose as follows:

(1) SSA is authorized by section 1137(a)(4)(B) of the Social Security Act (the Act) to obtain information from States and the Internal Revenue Service that may affect an individual's—

—Eligibility for, or amount of, payment under the title XVI Supplemental Security Income (SSI) program, and

—Continuing entitlement to, or amount of, title II Retirement, Survivors, or Disability Insurance (RSDI) programs under the Social Security Act (the Act).

(2) SSA provides information to Federal, State, and local agencies as follows:

(a) Social Security benefit information is released to Federal, State, and local agencies for determining eligibility for, or the amount of, payments or continuing entitlement to benefits/payments under State/locally-administered income-maintenance programs (e.g., Aid to Families with Dependent Children, general assistance, and Medicaid); and

(b) Internal Revenue Service tax information is released to:

—State and local agencies for administering certain programs pursuant to 26 U.S.C. 6103(l)(7) (i.e. Aid to Families with Dependent Children under Part A of title IV of the Social Security Act (the Act), Medicaid under title XIX of the Act, unemployment compensation under section 3304 of the Internal Revenue Code, the food stamp program under the Food Stamp Act of 1977, and any State program under a plan approved under title I, X, XIV, or XVI of the Act); and

—State and local child support enforcement agencies for administering the child support enforcement program pursuant to 26 U.S.C. 6103(l)(8).

Generally, SSA is the matching agency under the SAFE matching program. However, in some cases, SSA may furnish information to a Federal or State agency which will conduct a matching operation.

C. Authority for Conducting the Matching Program

Sections 205, 1137, and 1631(e)(1)(B) of the Act (42 U.S.C. 405, 1320b–7, and 1383(e)(1)(B)) and 26 U.S.C. 6103(l) (7) and (8).

D. Categories of Records and Individuals Covered by the Match

The SSA records are payment data pertaining to applicants for, and recipients of, title II RSDI benefits and title XVI SSI payments. The RSDI records are maintained in the Master Beneficiary Record system (last published in the FR on May 1, 1986, page 16223); the SSI records are maintained in the Supplemental Security Income Record (last published in the FR on October 13, 1982, page 45635). The State and/or local files include records of benefit payments such as State pensions, workers' compensation, general assistance, wage records, and tax files. The IRS tax information consists of net earnings from self-employment (as defined in 26 U.S.C. 1402), wages (as defined in 26 U.S.C. 3121(a) or 3401(a)), and payments of retirement income reported to SSA pursuant to 26 U.S.C. 6103(l)(1) or (l)(5). This information is maintained in the SSA Earnings Recording and Self-Employment Income System (last published in the FR on June 7, 1984, page 23697).

E. Inclusive Dates of the Matching Program

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Managment and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program Social Security Administration (SSA) Matching with State and Federal Prison Records

A. *Participating Agencies*

SSA, the Federal Bureau of Prisons (FBP), Department of Justice, and State prison systems.

B. *Purpose of the Matching Program*

The purpose of this matching program is to obtain data from State and Federal prisoner systems to identify individuals who are subject to the:

(1) Title II Retirement, Survivors, and Disability Insurance (RSDI) prisoner benefit suspension under section 202(x) of the Social Security Act (the Act), and

(2) Title XVI Supplementary Security Income (SSI) eligibility restrictions to individuals in public institutions pursuant to section 1611(e)(1)(A) of the Act.

C. *Authority for Conducting the Match*

Sections 202(x), 1611(e)(1)(A), and 1631(f) of the Act.

D. *Categories of Records and Individuals Covered by the Match*

SSA will match identifying information received from the FBP Central Records System, Justice/BOP–005 and State-maintained prison records data with data in the Master Beneficiary Record (MBR) (last published in the **Federal Register** (FR) at 51 FR 16223, May 1, 1986) and Supplementary Security Income Record (SSR) (last published in the FR at 47 FR 45635, October 13, 1982). The SSA MBR and SSR contain identifying and payment information about individuals applying for benefits/payments under the title II and title XVI programs. The FBP and State records contain information about prisoner incarceration such as the prisoner's name, Social Security number, date of birth, sex, date of confinement, and length of sentence (used to determine felony and nonfelony convictions.

E. Inclusive Dates of the Match

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. *Address for receipt of Public Comments or Inquiries*

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations

Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program Social Security Administration (SSA) Matching with Internal Revenue Service (IRS) Records IRS/ Supplemental Security Income (SSI) Interface

A. *Participating Agencies*

SSA and IRS.

B. *Purpose of the Matching Program*

The SSI program has, as one of its factors for determining initial and continuing eligibility for payment, a limit on the amount of resources (e.g., savings accounts, stock, etc.) an individual may own. Additional, unearned income such as interest, rents, royalties, dividends, winnings, unemployment compensation, etc., must be used in considering the SSI payment amount. The purpose of this matching program is to obtain tax information relating to unearned income from IRS to verify eligibility for, or the correct amount of, SSI payments.

C. *Authority for Conducting the Matching Program*

Section 1631(e) of the Social Security Act (42 U.S.C. 1383(e)) and 26 U.S.C. 6103(1)(7)(D)(iii).

D. *Categories of Records and Individuals Covered by the Match.*

SSA records consist of payment data about SSI recipients maintained in the Supplemental Security Income Record system of records (last published in the **Federal Register** (FR) on October 13, 1982, page 45635). The IRS records consist of unearned income data maintained in the IRS Information Return Master File.

E. *Inclusive Dates of the Match*

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. *Address for Receipt of Public Comments on Inquiries*

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program Social Security Administration (SSA) Matching With Department of Labor (DOL) Records

A. Participating Agencies

SSA and DOL.

B. Purpose of the Matching Program

DOL pays Part C Black Lung (BL) benefits to individuals who may also receive title II disability under the Social Security Act (the Act). Part C BL payments come within the purview of section 224 of the Act and must be considered the same as other workers' compensation payments in applying an offset to Social Security benefits. The purpose of this match is for SSA to obtain Part C Black Lung (BL) benefit and payment data from DOL to match against SSA's records of disabled workers to determine which workers are subject to SSA's offset. SSA will match the DOL data to verify information provided by the SSA beneficiary to ensure that the reduction in Social Security benefits is based on the current Part C BL amount.

C. Authority for Conducting the Matching Program

Section 224 of the Act (42 U.S.C. 424).

D. Categories of Records and Individuals Covered by the Match

DOL furnishes SSA an extract of its Office of Workers' Compensation Programs Black Lung Claimant Information File DOL/ESA–8 (last published in the FR on July 13, 1982, page 30365). SSA matches this extract with its Master Beneficiary Record (MBR), HHS/SSA/OSR, 09–60–0090 (last published in the **Federal Register** (FR) on May 1, 1986, page 16223). The DOL extract files contains identifying and entitlement and payment information about Part C BL beneficiaries. The MBR contains all pertinent payment data about Social Security beneficiaries.

E. Inclusive Dates of the Match

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program Social Security Administration (SSA) Matching With State and Federal Workers' Compensation (WC) Records

A. Participating Agencies

SSA, State agencies administering WC programs, and the Department of Labor (DOL).

B. Purpose of the Matching Program

SSA uses State and Federal WC data to verify title II Disability Insurance and Black Lung (BL) offset applications as well as title XVI Supplemental Security Income (SSI) unearned income adjustments. State and Federal WC data obtained through the matching program permits timely, proper payment of title II, title XVI, and BL benefits and assists SSA in detecting and preventing erroneous payments.

C. Authority for Conducting the Matching Program

Sections 224, 1631(e)(1)(B), and 1631(f) of the Social Security Act (42 U.S.C. 424a, 1383(e)(1)(B), and 1383(f)) and section 412(b) of the Black Lung Benefits Act.

D. Categories of Records and Individuals Covered by the Match

State WC agencies and DOL furnish SSA extracts of their payment files containing identifying data (e.g., name, Social Security number, and date of birth) and pertinent WC data (e.g., date of award, type of WC, basis of the award, payment history, lump sum information, and the WC claim number). These data are matched against SSA's title II, title XVI, and BL payments records. The DOL data are included in its Office of Worker's Compensation Programs Black Lung Claimant Information File (DOL/ESA–8) (last published in the FR on July 13, 1982, page 30365). SSA's data are maintained in the Black Lung Payment system (last published in the FR on March 25, 1987, page 9543), Master Beneficiary Record (last published in the FR on May 1, 1986, page 16223), and Supplemental Security Income Record (last published in the FR on October 13, 1982, page 45635).

E. Inclusive Dates of the Match

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program Social Security Administration (SSA) Supplemental Security Income Record (SSR) Matching With Department of Defense (DOD) Defense Manpower Data Center (DMDC) Records

A. Participating Agencies

SSA and DOD.

B. Purpose of the Matching Program

Section 1631(e)(1)(B) of the Social Security Act (the Act) requires SSA to verify the allegations of applicants and recipients for Supplemental Security Income (SSI) payments before making a determination of eligibility or payment amount. Section 1631(f) of the Act requires Federal agencies to furnish SSA with information necessary to verify SSI eligibility. The purpose of this matching program is for SSA to obtain DMDC military (Army, Navy, Air Force, and Marine Corps) retirement and survivor payment amounts to verify and, as necessary, update military income data on the SSR for SSI applicants and/or recipients who are simultaneously entitled to military retirement/survivor payments. The data obtained from DMDC will ensure that SSA has accurate information on which to base eligibility determinations for the SSI program.

C. Authority for Conducting the Matching Program

Section 1631(e)(1)(B) and 1631(f) of the Act (42 U.S.C. 1383(e)(1)(B) and 1383(f)).

D. Categories of Records and Individuals Covered by the Match

The SSA records consist of SSI payment information about SSI recipients on the SSR (last published in the **Federal Register** on October 13, 1982, page 45635). The DOD records consist of military retirement/survivor payment records in the DMDC data base.

E. Inclusive Dates of the Match

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program, Social Security Administration (SSA), Supplemental Security Income Record (SSR) Matching With Office of Personnel Management (OPM) Records

A. Participating Agencies

SSA and OPM.

B. Purpose of the Matching Program

Section 1631(e)(1)(B) of the Social Security Act (the Act) requires SSA to verify the allegations of applicants and recipients for Supplemental Security Income (SSI) payments before making a determination of eligibility or payment amount. Section 1631(f) of the Act requires Federal agencies to furnish SSA with information necessary to verify SSI eligibility. The purpose of this match is for SSA to obtain OPM data to verify the accuracy of eligibility factors for the SSI program.

C. Authority for Conducting the Matching Program

Section 1631(e)(1)(B) and 1631(f) of the Act (42 U.S.C. 1383(e)(1)(B) and 1383(f)).

D. Categories of Records and Individuals Covered by the Match

The SSA records consist of SSI payment records maintained in the Supplemental Security Income Record system (last published in the FR on October 13, 1982, page 45635). The OPM records consist of civil service benefit and payment data maintained in the system of records entitled OPM/Central—1 Civil Service Retirement and Insurance Record.

E. Inclusive Dates of the Match

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program, Social Security Administration (SSA), Matching With Office of Personnel Management (OPM)

A. Participating Agencies

SSA and OPM.

B. Purpose of the Matching Program

Pub. L. 97–253 requires OPM to reduce civil service pension benefits by offsetting Social Security title II Retirement, Survivors and Disability (RSDI) benefits calculated using military service after 1956. The purpose of this portion of the match is to identify these beneficiaries.

Additionally, chapters 83 and 84 of title 5, United States Code (U.S.C.) requires OPM to verify earnings data supplied by civil service retirees and annuitants. Section 6103(l)(11) of the Internal Revenue Code requires SSA to disclose tax information to OPM to administer programs under chapters 83 and 84 of title 5, United States Code. The purpose of this portion of the match is for SSA to verify earnings data furnished directly to OPM by civil service retirees and annuitants.

C. Authority for Conducting the Matching Program

Pub. L. 97–253, Chapters 83 and 84, Title 5, U.S.C. and 26 U.S.C. 6103(l)(11).

D. Categories of Records and Individuals Covered by the Match

The SSA records involved in the match are title II RSDI payment data maintained in the Master Beneficiary Record (MBR) system (last published in the **Federal Register** (FR) on May 1, 1986, page 16223) and earnings, self-employment and other data which constitute tax information pursuant to 26 U.S.C. 6103 earnings data maintained in the Earnings Recording and Self-Employment Income system (last published in the FR on June 7, 1984, page 23697). The MBR maintains records about individuals who are claimants for, or beneficiaries of, title II RSDI benefits. The Earnings Record system maintains records of individuals' wages or self-employment income from employment covered under Social Security. The OPM records consist of annuity data from its

system of records entitled OPM/Central—1 Civil Service Retirement and Insurance Record.

E. Inclusive Dates of the Match

The matching program will begin on July 19, 1989 or 30 days after agreements to which the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program, Social Security Administration (SSA), Master Beneficiary Record (MBR) Matching with Office of Personnel Management (OPM) Records, Government Pension Offset (GPO)

A. Participating Agencies

SSA and OPM.

B. Purpose of the Matching Program

Section 202 of the Social Security Act (the Act) requires that SSA reduce the Social Security benefits of certain beneficiaries entitled to Social Security spouses' benefits who are also entitled to a government pension based on their own noncovered earnings. This reduction is referred to as the GPO. SSA will match OPM's civil service and payment data with SSA's records of beneficiaries receiving spouses' benefits to determine those who are subject to the GPO. SSA will match the OPM data to verify information provided by the SSA beneficiary at the time he/she initially applies for Social Security benefits and on a continuing basis to ensure that the reduction in Social Security benefits is based on the current pension amount.

C. Authority for Conducting the Matching Program

Section 202 of the Social Security Act (42 U.S.C. 402).

D. Categories of Records and Individuals Covered by the Match

The SSA records involved in the match are payment records maintained in the Master Beneficiary Record (MBR) system (last published in the **Federal Register** (FR) on May 1, 1986, page 16223). The MBR maintains records about individuals who are claimants for, or beneficiaries of, title II Retirement, Survivors, or Disability Insurance benefits. The OPM records consist of benefit and pension data from its system of records entitled OPM/Central—1 Civil Service Retirement and Insurance Record.

E. Inclusive Dates of the Match

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program, Social Security Administration (SSA), Master Beneficiary Record (MBR) Matching with Office of Personnel Management (OPM) Records, Public Disability Offset

A. Participating Agencies

SSA and OPM.

B. Purpose of the Matching Program

Section 224 of the Social Security Act (the Act) provides for the reduction of Social Security disability insurance (DI) benefits when the disabled worker is also entitled to a public disability benefit (PDB). This reduction is referred to as the PDB offset. A civil service disability benefit is considered a PDB. Section 224(h)(1) of the Act requires any Federal agency to provide SSA with information in its possession that SSA may require for the purposes of making a timely determination of the amount of reduction under section 224 of the Act.

This matching program is used to obtain OPM records of civil service disability benefits for matching with SSA DI benefits to identify DI beneficiaries whose benefits should be reduced because the disabled worker is receiving a civil service disability annuity benefit. SSA uses the OPM data to verify information provided by the SSA disabled worker at the time of initially applying for Social Security benefits and on a continuing basis to ensure the reduction in Social Security DI benefits is based on the current civil service disability benefit amount.

C. Authority for Conducting the Matching Program

Section 224 of the Act (42 U.S.C. 424(a)).

D. Categories of Records and Individuals Covered by the Match

The SSA records involved in the match are DI payment records maintained in the Master Beneficiary Record (MBR) system (last published in the **Federal Register** (FR) on May 1, 1986, page 16223). The MBR maintains records about individuals who are claimants for, or beneficiaries of, title II Retirement, Survivors, or Disability Insurance benefits. The OPM records consists of disability data from the system of records entitled OPM/Central–1 Civil Service Retirement and Insurance Records about Disability Annuitants.

E. Inclusive Dates of the Match

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program, Social Security Administration (SSA), Master Beneficiary Record (MBR) Matching with Office of Personnel Management (OPM) Records Windfall Elimination Provision (WEP)

A. *Participating Agencies*

SSA and OPM

B. *Purpose of the Matching Program*

Sections 214(a)(7) and 215(d)(5) of the Social Security Act (the Act) provide for a modified benefit computation to be used for certain beneficiaries who are concurrently entitled to both Social Security benefits and a civil service annuity. The purpose of this match is for SSA to obtain OPM civil service annuity data for matching with SSA records pertaining to disabled and retired beneficiaries to identify those

beneficiaries who may be dually entitled. The OPM data is necessary to adjudicate properly Social Security claims affected by the WEP. SSA will use the OPM data to verify the pension or annuity information provided directly to SSA by the retirees/annuitants.

C. *Authority for Conducting the Matching Program*

Section 215 of the Act (42 U.S.C. 415).

D. *Categories of Records and Individuals Covered by the Match*

The SSA records involved in the match are payment records maintained in the Master Beneficiary Record (MBR) system (last published in the **Federal Register** (FR) on May 1, 1986, page 16223). The MBR maintains records about individuals who are claimants for, or beneficiaries of, title II Retirement, Survivors, or Disability Insurance benefits. The OPM records consist of benefit and pension data from its system of records entitled OPM/Central—1 Civil Service Retirement and Insurance Record.

E. *Inclusive Dates of the Match*

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. *Address for Receipt of Public Comments or Inquiries*

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program, Social Security Administration (SSA), Master Beneficiary Record (MBR) Matching with Office of Personnel Management (OPM) Federal Employees Retirement Systems (FERS) Records

A. *Participating Agencies*

SSA and OPM.

B. *Purpose of the Matching Program*

Chapters 83 and 84 of title 5, United States Code require that OPM verify Social Security benefit information supplied by civil service retirees and annuitants. This law also requires SSA to disclose information to OPM. The purpose of the match is for SSA to identify individuals dually entitled under OPM and Social Security programs and furnish information to OPM to verify information provided by civil service retirees and annuitants.

C. *Authority for Conducting the Matching Program*

Chapters 83 and 84, Title 5, U.S.C.

D. *Categories of Records and Individuals Covered by the Match*

The SSA records involved in the match are title II Retirement, Survivors, and Disability Insurance (RSDI) payment data maintained in the Master Beneficiary Record (MBR) system (last published in the **Federal Register** (FR) on May 1, 1986, page 16223). The MBR maintains records about individuals who are claimants for, or beneficiaries of, title II RSDI benefits. The OPM records consist of annuity data from its system of records entitled OPM/Central—1 Civil Service Retirement and Insurance Record.

E. *Inclusive Dates of the Match*

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. *Address for Receipt of Public Comments or Inquiries*

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1, Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program, Social Security Administration (SSA) Supplemental Security Income Record (SSR) Matching with Department of the Treasury Bureau of Public Debt (BPD) Savings Bond Registration Records

A. *Participating Agencies*

SSA and BPD.

B. *Purpose of the Matching Program*

Section 1631(e)(1)(B) of the Social Security Act (the Act) requires SSA to verify the allegations of applicants and recipients for Supplemental Security Income (SSI) payments before making a determination of eligibility or payment amount. Section 1631(f) of the Act requires Federal agencies to furnish SSA with information necessary to verify SSI eligibility. The purpose of this match is for SSA to obtain BPD savings bond registration information to verify eligibility for, or amount of, SSI payments.

C. Authority for Conducting the Matching Program

Section 1631(e)(1)(B) and 1631(f) of the Act (42 U.S.C. 1383(e)(1)(B) and 1383(f)).

D. *Categories of Records and Individuals Covered by the Match*

The SSA records consist of SSI payment records maintained in the Supplemental Security Income Record system (last published in the FR on October 13, 1982, page 45635). The BPD records consist of identifying and savings bond registration information.

E. *Inclusive Dates of the Match*

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. *Address for Receipt of Public Comments or Inquiries*

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program, Social Security Administration (SSA) Master Beneficiary Record (MBR) Matching with Department of Veterans Affairs (DVA) Records

A. *Participating Agencies*

SSA and DVA.

B. *Purpose of the Matching Program*

Section 3006 of title 38 U.S.C. requires Federal agencies to provide information to DVA to verify the allegations of beneficiaries for DVA payments before making a determination of eligibility or payment amount. The purpose of this match is to provide DVA with SSA information for determining eligibility for DVA-administered benefits.

C. *Authority for Conducting the Matching Program*

38 U.S.C. 3006.

D. *Categories of Records and Individuals Covered by the Match*

The SSA records involved in the match are payment records maintained in the MBR system (last published in the **Federal Register** (FR) on May 1, 1986, page 16223). The MBR contains records about individuals who are claimants for, or beneficiaries of title II Retirement, Survivors, or Disability Insurance benefits. The DVA records are compensation and pension (C&P) data in the DVA system of records entitled Compensation, Pension, Education, and Rehabilitation Record-VA (last published in the **Federal Register** (FR) at 47 FR 372). DVA's C&P data consist of

information pertaining to benefits paid by DVA on the basis of an individual's military service.

E. *Inclusive Dates of the Match*

The matching program will begin in December 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will end in January 1991.

F. *Address for Receipt of Public Comments or Inquiries*

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program, Social Security Administration (SSA), Supplemental Security Income Record (SSR) Matching with Department of Veterans Affairs (DVA) Records

A. Participating Agencies

SSA and DVA.

B. Purpose of the Matching Program

Section 1631(e)(1)(B) of the Social Security Act (the Act) requires SSA to verify the allegations of applicants and recipients for Supplemental Security Income (SSI) payments before making a determination of eligibility or payment amount. Section 1631(f) of the Act requires Federal agencies to furnish SSA with information necessary to verify SSI eligibility. The purpose of this match is to identify Supplemental Security Income recipients who receive DVA-administered benefits. SSA will use the information in determining eligibility for, or amount of, SSI payments.

C. Authority for Conducting the Matching Program

Section 1631(e)(1)B) and 1631(f) of the Act (42 U.S.C. 1383(e)(1)(B) and 1383(f)).

D. Categories of Records and Individuals Covered by the Match

SSA matches DVA's compensation and pension (C&P) data in the DVA system of records entitled Compensation, Pension, Education, and Rehabilitation Record-VA (last published in the **Federal Register** (FR) at 47 FR 372) with its Supplemental Security Income Record system (last published in the FR on October 13, 1981, page 45635). DVA's C&P data consists of information pertaining to benefits paid by VA on the basis of an individual's military service. SSA's SSR contains identifying and payment information about individuals who have applied for SSI payments.

E. Inclusive Dates of the Match

The matching program will begin on August 1, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program, Social Security Administration (SSA) Master Beneficiary Record (MBR) Matching with Railroad Retirement Board (RRB) Records

A. Participating Agencies

SSA and RRB.

B. Purpose of the Matching Program

Section 18 of the Railroad Retirement Act (RRA) requires that earnings treated as compensation under the RRA be considered as wages under the Social Security Act (the Act) for purposes of determining entitlement under the Act if the number holder has less than 120 months of railroad service. The purpose of this matching program is for SSA to obtain RRB earnings records for matching with SSA's earnings records on Retirement, Survivors, and Disability Insurance (RSDI) beneficiaries. SSA will use the data to establish entitlement to, and amount of, Social Security benefits.

In addition, under section 7 of the RRA, SSA provides earnings and other data to RRB to determine the correct payment of RRB benefits.

C. Authority for Conducting the Matching Program

Sections 202 and 205 of the Act (42 U.S.C. 402 and 405) and 45 U.S.C. 231.

D. Categories of Records and Individuals Covered by the Match

The RRB records consist of identifying information and railroad earnings from its Service and Compensation Record file. SSA's records consists of RSDI data maintained in the Master Beneficiary Record (MBR) system (last published in the **Federal Register** (FR) on May 1, 1986, page 16223). The MBR maintains records about individuals who are claimants for, or beneficiaries of, RSDI benefits.

E. Inclusive Dates of the Match

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notice of Computer Matching Program, Social Security Administration (SSA) Supplemental Security Income Record (SSR) Matching with Railroad Retirement Board (RRB) Records

A. Participating Agencies

SSA and RRB.

B. Purpose of the Matching Program

Section 1631(e)(1)(B) of the Social Security Act (the Act) requires SSA to verify the allegations of applicants and recipients for Supplemental Security Income (SSI) payments before making a determination of eligibility or payment amount. Section 1631(f) of the Act requires Federal agencies to furnish SSA with information necessary to verify SSI eligibility. The purpose of this match is to identify SSI recipients who receive RRB pension payments amounts. The RRB data will provide SSA with information necessary to verify the accuracy of eligibility factors for the SSI program.

C. Authority for Conducting the Matching Program

Sections 1631(e)(1)(B) and 1631(f) of the Act (42 U.S.C. 1383(e)(1)(B) and 1383(f)).

D. Categories of Records and Individuals Covered by the Match

The RRB records consist of identifying and pension payment data. The SSA records consist of SSI identifying and payment records maintained in the SSR system of records (last published in the **Federal Register** on October 13, 1982, page 45635).

E. Inclusive Dates of the Match

The matching program will begin on July 19, 1989 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended for an additional 12 months thereafter.

F. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program should submit comments by July 17, 1989, to the SSA Privacy Officer, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

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federal register

Friday
June 16, 1989

Part VI

The President

Proclamation 5990—Baltic Freedom Day, 1989

Part VI

The President

Federal Register
Vol. 54, No. 115
Friday, June 16, 1989

Presidential Documents

Title 3—

The President

Proclamation 5990 of June 14, 1989

Baltic Freedom Day, 1989

By the President of the United States of America

A Proclamation

Fifty years ago on August 23, 1939, the foreign ministers of the Soviet Union and Nazi Germany signed the infamous Molotov-Ribbentrop pact. The secret protocols to this treaty condemned the independent Baltic States of Estonia, Latvia, and Lithuania to the foreign domination they still endure today.

Less than 1 year after the signing of the Molotov-Ribbentrop pact, the Soviet Union invaded the three Baltic Republics and imposed a regime antithetical to the ideas of national sovereignty and individual liberty. The suffering of the Baltic people was exacerbated when Nazi forces drove through these states during the beginning of the Nazi-Soviet War and established a brutal administration. When the Red Army recaptured the Baltic States during World War II, it reinstituted a reign of terror under the Soviet secret police. Hundreds of thousands of innocent men, women, and children were deported to Siberia; thousands of others perished in armed resistance to the attack upon their national independence and individual rights. By the end of World War II, the Baltic States had lost 20 percent of their population.

Since their forcible annexation by the Soviet Union in 1940, the people of Lithuania, Latvia, and Estonia have suffered political oppression, religious persecution, and repression of their national consciousness. Their cultural heritage has been denigrated and suppressed, and russification has threatened their survival as distinct ethnic groups. An aggressive program of industrialization has posed hazards to their health as well as the environment. Members of the clergy and lay religious leaders have been systematically harassed and imprisoned for activities deemed unacceptable by the authorities.

However, half a century of repression has not broken the spirit of the Baltic peoples. Today, their longing and hopes for liberty remain strong. Hundreds of thousands of Estonian, Latvian, and Lithuanian men and women have publicly demonstrated their desire for freedom and democracy, calling for national autonomy and control over their own affairs.

The future looks brighter today than at any other time in the Baltic States' post-war experience. The undeniable voice of Baltic people is being heard. Some religious shrines—desecrated by the Communist government and used to house concerts, artwork, and even a museum of atheism—have been returned to the churches. Members of the clergy have been allowed to take up their pastoral duties. The unique languages, national flags, and patriotic songs of the three countries have been restored. Some political prisoners have been released.

These are important steps, but justice demands that more be taken. Recent improvements in human rights practices by the ruling Communist officials are not complete, nor have they been institutionalized. The people of Lithuania, Latvia, and Estonia both demand and deserve lasting guarantees of their fundamental rights.

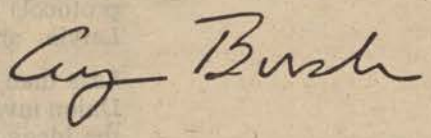
The Government of the United States does not and will not recognize the unilateral incorporation by force of arms of the Baltic States into the Soviet Union. Of this observance of Baltic Freedom Day, we express our solidarity

with them and call upon the Soviet Union to listen to their calls for freedom and self-determination.

By Senate Joint Resolution 63, the Congress has designated June 14, 1989, as "Baltic Freedom Day" and has requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim June 14, 1989, as Baltic Freedom Day. I call upon the people of the United States to observe this day with appropriate remembrances and ceremonies and to reaffirm their commitment to principles of liberty and freedom for all oppressed people.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of June, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.



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federal register

Friday
June 16, 1989

Part VII

Department of Health and Human Services

Food and Drug Administration

Temporary Deferment of Activities Relating to Medical Device Submissions; Notice

Federal Register

Part VII

Department of Health and Human Services

Food and Drug Administration

Temporary Deferment of Activities Relating to Medical Device Submissions; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Temporary Deferment of Activities Relating to Medical Device Submissions

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Office of Device Evaluation (ODE), Center for Devices and Radiological Health (CDRH) will be moving from its Silver Spring, MD location to Rockville, MD in early July 1989. During the period required for relocation of files, equipment, and agency personnel, the agency will not officially receive premarket notifications, premarket approval applications, or investigational device exemption applications nor will the agency continue its review of pending submissions. The statutory review period on pending submissions will be suspended during this period needed for relocation of ODE. ODE will renew work on and will officially receive submissions after the relocation is completed. FDA estimates that the deferment period will be about 10 days, but it may vary, depending on the circumstances of the move. Following the move, FDA will publish a notice providing the new address for submissions and identifying the exact period during which action on new and existing submissions was temporarily deferred.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: ODE is responsible for many CDRH activities under sections 510, 513, 515, and 520 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360, 360c, 360e, and 360j). These activities include:

1. Advising the Director, CDRH, and other FDA officials on all medical device submissions, such as premarket notification submissions under section 510(k) of the act, device classifications under section 513 of the act, premarket approval applications (PMA's) and product development protocols (PDP's) under section 515 of the act, and clinical investigations under section 520 of the act;
2. Determining substantial equivalence for premarket notification submissions;
3. Planning, conducting, and coordinating CDRH actions regarding PMA's, PDP's, and investigational device exemption approvals, denials, or withdrawals of approval;
4. Monitoring sponsors' compliance with regulatory requirements; and
5. Conducting a continuing review, surveillance, and medical evaluation of the labeling, clinical experience, and required reports submitted by sponsors holding approved applications.

In an effort to consolidate CDRH offices, FDA is moving ODE and other CDRH offices from their present Silver Spring, MD location to Rockville, MD. This move will occur in early July 1989. Because FDA will be moving all staff, equipment, and files, the office will be unable to start or continue work on new and existing submissions and reports until its new offices are ready. Therefore, FDA plans to temporarily defer action on the items listed above.

FDA anticipates that this period will be about 10 days, more or less, depending on the circumstances of the move. During this period, FDA will continue to accept mail, but will not officially log it in and commence review submissions. Any statutory review period will not commence until the relocation is completed and ODE functions resume. Also, the statutory review periods on pending submissions will be suspended during the relocation period. The Center will of course attempt to minimize the period during which regular procedures are suspended. Following the move, FDA will publish a notice providing the new address for submissions and identifying the exact period during which action on new and existing submissions was temporarily deferred.

Persons who may be affected by this temporary deferment should contact FDA with any questions they may have regarding ODE's move to the Rockville, MD area. These persons should call CDRH's Division of Small Manufacturers Assistance at 800–638–2041 (in MD, 301–443–6597).

Dated: June 14, 1989

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–14556 Filed 6–15–89; 11:26 am]

BILLING CODE 4160–01–M

federal register

Friday
June 16, 1989

Part VIII

Department of Education

Office of Postsecondary Education

College Work-Study—Community Service Learning Program; Notice

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

College Work-Study—Community Service Learning Program

AGENCY: Department of Education.

ACTION: Notice of Closing Date for Filing the Campus-Based Reallocation Form to receive supplemental allocations for the College Work-Study—Community Service Learning Program (CWS–CSL).

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution to apply for supplemental 1989–90 allocations under the CWS–CSL program. The Secretary has the authority to reallocate unexpended College Work-Study (CWS) funds that institutions received for expenditures during the 1988–89 award year (July 1, 1988 through June 30, 1989) as supplemental allocations for the 1989–90 award year (July 1, 1989 through June 30, 1990). Supplemental allocations will be issued this fall in accordance with reallocation procedures contained in 34 CFR 675.3 and 675.4.

Section 442(e)(2) of the Higher Education Act of 1965, as amended, requires the Scretary to use an amount not in excess of 25 percent of those CWS funds available for reallocation each year to issue supplemental CWS–CSL allocations to eligible institutions for the purpose of initiating, improving and expanding programs of community service learning. CWS–CSL supplemental allocations may be used only for administrative expenses related to the development of work-study programs involving the employment of CWS-eligible students in community service learning activities.

The CWS–CSL program is authorized by Section 447, Part C of Title IV of the Higher Education Act of 1965, as amended. (42 U.S.C. 2756a).

Closing Date: An institution must apply for 1989–90 supplemental allocations for the College Work-Study—Community Service Learning Program by submitting the completed data cells on the Campus-Based Reallocation Form (ED Form E40–4P; OMB No. 1840–0559).

To ensure consideration for the 1989–90 funds, the Campus-Based Reallocation Form (ED Form E40–4P) must be mailed or hand-delivered by July 19, 1989.

Campus-Based Reallocation Forms Delivered by Mail: A Campus-Based Reallocation Form (ED Form E40–4P) sent by mail must be addressed to the U.S. Department of Education, Office of Student Financial Assistance, Division of Program Operations and Systems, Campus-Based Programs Branch, 400 Maryland Avenue, SW., (Room 4621, Regional Office Building 3), Washington, DC 20202–5452.

An institution must show proof of mailing consisting of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (2) A legibly dated U.S. Postal Service postmark; (3) A dated shipping label invoice, or receipt from a commercial carrier; (4) Any other proof of mailing acceptable to the Secretary of Education.

If a Campus-Based Reallocation Form is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail.

Campus-Based Reallocation Forms Delivered by Hand: A Campus-Based Reallocation Form that is hand delivered must be taken to the U.S. Department of Education, Office of Student Financial Assistance, Division of Program Operations and Systems, Campus-Based Programs Branch, 7th and D Streets, SW., Room 4621, Regional Office Building 3, Washington, DC 20202–5452. Hand-delivered Campus-Based Reallocation Forms will be accepted between 8:00 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays and Federal holidays. A report that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Campus-Based Reallocation Form Information: Campus-Based Reallocation Forms and a CWS–CSL program information package were mailed to all participating institutions by the Campus-Based Programs Branch in June. Each institution applying for 1989–90 Supplemental allocations must submit the form in accordance with the instructions included in the package.

The CWS–CSL program information package is intended to aid applicants in applying for assistance under CWS–CSL programs. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing the programs.

Applicable Regulations: Applicable regulations are the 34 CFR Part 675 (College Work-Study), 34 CFR Part 668 (Student Assistance General Provisions), and 34 CFR Part 85 (Education Department General Administrative Regulations).

FOR FURTHER INFORMATION CONTACT: For further information or to request a Campus-Based Reallocation Form, contact Ms. Gloria Easter, Chief, Financial Management Section, Division of Program Operations and Systems, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4621, ROB–3), Washington, DC 20202–5452. Telephone (202) 732–3758.

Program Authority: 42 U.S.C. 2751.

(Catalog of Federal Domestic Assistance No. 84.033, College Work-Study Program)

Dated: June 15, 1989

James B. Williams,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 89–14557 Filed 6–15–89; 11:34 am]

BILLING CODE 4000–01–M

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